# THE SERPENT SALVE, OR, A REMEDIE For the Biting of an ASPE:

WHEREIN,

The Obſervators Grounds are diſcuſſed and plainly diſcovered to be unſound, Seditious, not warranted by the Laws of God, of Nature, or of Nations, and moſt repugnant to the known Laws and cuſtoms of this Realm.

For the reducing of ſuch of His Majeſties well-meaning Subjects into the right Way who have been miſ-led by that *Ignis fatuus*.

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# To the Reader.

When that Signe or rather Meteor called *Castor* and *Pollux* appeares single to the Sea-faring Men, it portends a dangerous Tempest, because of the density or toughnesse of the matter which is not easily dissolved: And when it appeares double divided into two, it presageth Serenity and a good Voyage. But it is otherwise in the Body Politick. When the King and Parliament are united, it promiseth Happy and Halcionian Dayes to the Subject; and when they appeare divided, it threatens Ruine and Dissipation to the whole Kingdome. This is our present condition, the Heads are drenched with the oyle of Discord, and it runs down to the skirts of the Garment. Of all Hereticks in Theology, they were the worst who made two be-

 ginnings,

ginnings, a God of Good and a God of Evill: Of all Hereticks in Policy, they are the most dangerous, which make the Common-wealth an *Amphisbena*, a Serpent with two heads, who make two Supreames without subordination one to another, the King and the Parliament. That is to leave a Seminary of Discord, to lay a Trappe for the Subject to set up a Rack for the Conscience, when Superiours sends out contrary Commands (as the Commission of Array, and the Order for the *Milita*.) If they were subordinate one to another, we had a safe way both to discharge our Conscience towards God, and secure our Estates to the World, that is by obeying the Higher Power according to that golden Rule, *in presentia Majoris cessat authoritas Minoris*. But whilest they make them coordinate one with another, the Estate, the Liberty, the Life, the Soule of every Subject lies at Stake: what passage can poor Conscience find between this *Scilla* and *Charybdis*, between the two hornes of this *Dilemma*? No Man can serve two Masters.

All great and sudden Changes are dangerous to the Body Naturall, but much more to the Body Politick. Time and Custome beget

Reverence

Reverence and Admiration in the minds of all men; frequent Alterations produce nothing but Contempt, Break ice in one place, it will crack in more. Mountebankes, Projectors, and Innovators; alwayes promiſe golden Mountains, but their performance is ſeldome worth a cracked Groat. The credulous Aſſe in the Fable believed, that the Wolf (his counterfeit Phiſitian) would cure him of all his Infirmities, and loſt his skin for his labour. When the Devill tempted our firſt Parents, he aſſured them of a more happy Eſtate, then they had in Paradiſe: but what ſaith our common Proverbe ſeldome comes the better. It is the Ordinance of God, that nothing ſhould be perfectly bleſſed in this World, yet it is our weakneſſe to impute all our ſufferings to our preſent condition, and to believe a change would free us from all Imcombrances. So thought the Romanes, when they changed their Conſulls into *Conſulary Tribunes*: So thought the Florentines when they caſhiered their *Decem-Viri*; both found the diſadvantage of their Novelties; both were forced to ſhake hands again with their old Friends. Other Nations have uſed to picture an Engliſh man with a paire of

Sheeres

the arce in his hand, thus deriding our newfangledneſſe in attire: But it is farr worſe to be shaping new Creeds every Day, and new formes of Government, according to each mans private humour. When a ſick man toſſeth from one ſide of his bed to another, yet his Diſtemper followes him. They ſay our Countryman never knowes when he is well, but if God Almighty be graciouſly pleaſed once again to ſend us Peace, I truſt we ſhall know better how to value it. In the mean time, let us take heed of credulity and newfangledneſſe. Thoſe States are moſt durable, which are moſt conſtant to their own Rules. The glory of *Venice* is perpetuated not ſo much by the ſtrong Situation, as by that Sanction or Conſtitution, that it is not lawfull for any man to make mention of a new Law to the grand Counſell, before it have been firſt diſcuſſed and allowed by a ſelected Company, of their moſt intelligent moſt experienced Citizens. Among the *Locrians* no man might propoſe a new Law, but with an halter about his neck, that if he did not ſpeed in his ſuite, he might preſently be ſtrangled. The Lacedemonians did ſo farr abhorre from all ſtudy of change, that they baniſhed a skil-

full

full Musicion, onely for adding one string more to the Harp.

I desire that no man will interpret what I say in this Discourse as intended to the Prejudice of the lawfull Rights, and just privileges of Parliament. The very name of a Parliament was Musick in our eares; at the Summons thereof our hearts danced for joy. It is rather to be feared that we idollized Parliaments, and trusted more in them then in God for our temporall well being. God who gave the *Israelites* a King in his anger, may at his pleasure give us a Parliament in his anger. That we reap not the expected fruit (next to our sins) we may thank the Observator, and such Incendiaries. I confesse my selfe the most unfit of thousands to descend into this Theater, as one who have lived hitherto a Mute; but to see the Father of our Country threatned and villified by a common Souldier, is able to make a dumb man speak, as it did sometimes the Sonne of *Crœsus*. *Quando dolor est in capite* (saith Saint *Bernard*) when the head akes the tongue cries for assistence, and the very least members, the Toe, or the little Finger is affected. We are commanded to be wise as Ser-

pents.

pents. *Math.* 10. 16. A chief wisdome of the Serpent is in time of Danger to wrap and fold his head in the circles of his body, to save that from blowes. I pretend not to skill in Politicks, the Observator may have read more Bookes and more Men, but let him not despise a weak Adversary who comes armed with evident truth, I know I have the better cause, the better second. The Birds in *Aristophanes* fancying an all-sufficiency to themselves, did attempt for a while to build a City walled up to Heaven, not much unlike such another Fiction of the Apes in *Hermogenes*, but at length the one for feare of *Jupiters* Thunder, and the other for want of convenient tooles, gave over the Enterprise. Believe it, the frame of an ancient, glorious, well-temper'd, and setled Monarchy, though it may be shaken for a time, will not, cannot be blown upside down, with a few windy Exhalations, or an handfull of Sophisticall squibbes. The World begins to see something through the holes of these mens cloakes, and to espye Day through the midst of the Milstone. And now that men may borrow a word edgeway with them, it will be peal'd into their eares dayly.

I shall

I shall deale more ingenuously with the Observer, then he hath done with his Soveraigne, to catch here and there at a piece of a sentence, and passe by that as mute as a Fish, to which he had nothing to say. If His Majesties cleare Demonstrations (which to a strong judgement seeme to be written with a beam of the Sun, and like the principles of Geometry doe rather compell then perswade) did leave any place for further confirmation, the Observers silence were sufficient to proclaime them unanswerable. There needs no other proofe of His Majestyes Lenity and Goodnesse then this, That a Subject dare publish such observations in a Monarchy, and maintain argument with his Liege Lord, *Multa donanda ingeniis, sed donanda vitia, non portenta sunt.* He deserveth small pitty, who priseth his word more then his Head. King *Lewes* said of some seditious Preachers in *France*, *If they taxe me in their Pulpits I will send them to preach in another Climate.* *Pollio* said of *Augustus*, *Non est facile in eum scribere, qui potest proscribere.* The King of the Bees, though he want a sting, yet is he sufficiently armed with Majesty. So should King *Charles* be to the Observer and his pew-

fellowes if they were profitable Bees, as they are a nest of Waspes and Hornets.

I find two branches of this Family (I cannot call them the Family of Love) as averse one to another as *Sampsons* Foxes. It is hard to say whether is the ancient House; for they both sprung up, the one in *Spaine*, the other at *Geneva*, about the same time, the yeare 1536. The Captaines of the one are *Bellarmine*, *Simancha*, *Mariana*, &c. The chieftaine of the other, are *Beza* (if it be his Book *de jure Magistratus*, as is believed,) *Buchanan*, *Stephanus Junius*, &c. The former in favour of the Pope, the latter in hatred of the Pope; yet both former and latter may rise up in Judgement with our Incendiaries and condemne them; for if they had had as gracious a Prince as King *Charles*, they had never broached such tenets to the World, I have busied my selfe to find out the Progenitors of these two different Parties: and for the former, I cannot in probability derive them from any other then Pope *Zachary*, Who it seemes (as the Ostridge) left an egge in the Sand, which after a long revolution of time, was found and hatched by the care of some Loyolists, for thus he in *Arcanis*, *A*

*Prince*

*Prince is subject to the People, by whose benefit he reignes; whatsoever Power, Riches, Glory, Dignity he hath, he received it from the People, Regem Plebs constituit, eundem destituere potest.* As for the latter (because I know they will scorn to ascribe their Originall to a Pope) I cannot fine one of their Ancestors in all the Church of Christ, for fifteen hundred yeares, untill I come as high as Saint *Judes* dreamers, or the Pharisees of whom *Iosephus* saith, that they were a *Sect, cunning, arrogant, and opposite to Kings.* And they have one Pharasaicall virtue in great eminency, that is, self-love and partiallity, to make their own case different from all other mens, as may appeare by these particulars.

First, a question is moved concerning the Kings Supremacy in Ecclesiasticall Affaires. They give Power to Kings to reforme the Church, just as *Bellarmine* gives to the Pope to depose Princes, not certainly, but contingently, in the case of an ungodly Clergy (that is in their sense, all other but themselves:) but if they be once introduced, neither King nor Parliament have any more to doe, but execute their Decrees, then *the whole Regiment of the Church, is committed by Christ to Pastors, Elders,*

*and Deacons*, so Cartwright; then *Magistrates must remember to subject themselves, submit their Scepters, throw down their Crownes to the Church, and as the Prophet speaketh, to lick the dust of the feet of the Church*, that is, of the Presbitery, what is this but kissing of the Presbiters toes?

Secondly, where they have hope of the King, there the Supreame Magistrate may, nay he ought to reforme the Church, yea *though the Statutes of the Kingdome be against it*, so say the Authors of the Protestation printed 1605. But what if the King favour them not? then he is but *a conditionall trustee, it belongeth to the States and representative body of the Kingdom*: but what if the Nobility will not joyne? *then the People must*, so said *Field*, *since we cannot bring this to passe by Suite, or Dispute, the People and Multitude must doe it*, yea, *though it be with blood*, as Martin threatens in his Protestation. *The People* (saith Buchanan) *have as much power over Kings, as Kings have over particular Persons. Nobility* (saith the Book of Obedience) *is the Bounty of the People to some Persons, for delivering them from Tyrants, which prerogative, the Children kept, by the Peoples negligence.* And of late, have not the Peers been exhorted

*to mingle themselves with the meanest of the People, and for the procuring a parity in the Church, to consent to a parity in the State, and for the subduing of the pride of Kings, for a time, to part with the power of Noblemen.* For a time, what's that? that is, according to the former Doctrine, till the People be pleased out of their Bounty to advance them *according to their severall Talents*; for their *zeale to shed the blood of the ungodly.* The Misery beginns now to open itselfe, and I trust will shortly appeare in its right colours. By these reverend Fathers (I mean the Rabble) the Discipline was brought into *Genevah* it self, against the will of the *Syndicks*, and two Councels: *In illa promiscua collusie suffragiis fuit unus superiores*, saith *Calvin.* Thus these men make Kings and Nobles, but as Counters which stand sometimes for a pound, sometimes for a penny *pro arbitrio supputantis*, just like *Chaucers* Frier, he knew how to impose an easy Pennance, where he looked for a good Pittance.

Thirdly, the wheele of Heaven, hath not yet wound up one thred more of the clew of our Life, since we heard nothing but *Encomiums* of the Law, Treason against the Fundamen-

tall

tall Laws, and Declarations against Arbitrary Government. Now the Law is become a Formallity, a Lesbian Rule, Arbitrary Government is turned to necessity of State. It is not examined what is just or unjust, but how the party is affected or disaffected, whether the thing be conducible or not conducible to the cause; we are governed not by the known Laws and Customs of this Realme, but by certain farr-fetched, dear-bought Conclusions, or rather Colllusions, drawn by unskilfull Empericks, without Art or Judgement from the Law of Nature and of Nations, which may be good for Ladyes by the Proverbe, but not for English Subjects. Now are we taught down-right, that *the Laws of the Land are but mans inventions, morall precepts, fitter for Heathens then Christians; that we must lead our Lifes according to Gods word,* (as if Gods word and the Law of the Land, were opposite one to another) and that notwithstanding the Law, men must *not thinke that Gods Children in doing the work of their Heavenly Father* (that is, reforming Religion) *will faint in their Duty* (that is, in raising Arms.) So, farewell *Magna Charta*, and the Laws of England for ever, if this man may



have

have his will: and welcome the judiciall Law of *Moses*. Now I see the reason, why they have taught so long, that the King cannot pardon any crime condemned by the judiciall Law; because no Man can dispense with the Law of God. But how many thousands have been drawn into this action, which never Dreamed of such a bottomlesse Gulfe of Mischief, and when they doe see it will abhominate it, and the Contrivers of it.

Fourthly, they have cryed Bishops out of Parliament, because no man that warreth must intangle himself with the affaires of this Life: yet they themselves have been humble Motioners, both in *England* and in *Scotland*, to have a number of wise and grave Ministers admitted into Parliament, in stead of Bishops. It was the men then, not the thing they misliked.

Fifthly, they say, to be a Clergy-man and a Privie-Councellour, are incompatible: yet *Calvin* and *Beza* were of the Councell of Sixty at *Geneva*, and the *Syndicks* and Councellours there of the Ecclesiasticall Senate; yea, even at home in a great Treaty of late, and in a Commission now on foot, we Have seen a Minister a prime Commissioner, and their great Patron

Vic-

vie-Councellers are of their Lay-Elders, which by their new Learning are a part of their Ecclesiasticall Hierarchy.

Sixthly we have heard a great noise lately about an Oath decreed in the Convocation; about another Oath called *Ex officio*, as if it were against the Law of Nature, for a man to accuse himselfe, *Nemo tenetur prodere seipsum*; and lastly about the Subscription which is required to our Articles of Religion: yet for the first, the Citizens of *Genevah* tooke the like Oath for their new Discipline (which the Sun had never beheld before) that we prescribed here for our old Discipline. There every Minister at his Admission takes an Oath in these words, *I doe promise and sweare to keep the Ecclesiasticall Ordinances, which are passed by the small, great, and Generall Councells of this City.* This is a note higher then ours. And of late we know who they were, that tooke an Oath to stand to those Decrees and Decisions, which should be made in an Assembly to come. For the second, that is, the Oath *Ex Officio*, it is allowed in their Presbiteries; *Calvin* in an Epistle to *Favellus* acknowledged, that he himself administred it: And for Subscriptions they are so familiar

miliar among them, that there is not a Minister admitted to a charge, nay not a Boy matriculated in a Colledge, but he knowes it. Is not this Partiality?

Seventhly, they complaine, that the Ecclesiasticall Courts did extend their Jurisdiction to Civill Causes: yet there is not that offence in the World, from Dancing and Feasting to Treason and murder, which is either a violation of our piety towards God, or Charity towards Man, which they doe not question in their Presbiteries: And which is worse, their Determinations are not Regulated by any known Law, but are merely arbitrary, *secundum sanæ Conscientiæ*. Neither doth there lye any appeale from them (as their did from Ecclesiasticall Courts,) he that durst but bring a prohibition to one of their Elderships, he would quickly feele, what it was to pull the Scepter of Christ out of his hands.

Eightly, they groaned hard under the burthen of the High Commission: yet themselves would erect an high Commission in every Parish; I doe not know whether all their Presbiteries be indowed with the like Power, but see I am, some of them have had both their

Prisons and their Pursevants. And where the High Commission here was confessed to be a temporary Institution, they plead for the other as a Divine Institution. Yet fearing this Parochiall Jurisdiction might not produce an uniforme Reformation, some of them have desired, others accepted generall Commissions, for Nationall-Superintendency.

Ninthly, they slight all old Councells, and new Convocations, and call their Canons in scorn, *the precepts of Men*: yet where they have power to call a Synod or Assembly, every man must submit at his uttermost perill, as if themselves were not men, but a Company of Angells.

Lastly, they call for Liberty of Conscience; yet no Men impose a heavier yoake upon the Conscience. They cry out against Martiall Law in others, and approve it in themselves. They hate Monopolists, but love Monopolies. They condemn an implicit Faith, yet no Men more confiding and implicit; grounding their actions neither upon Reason, Law, nor Religion, but upon the authority of their Leaders and Teachers. They magnifie the obligation of an Oath, yet in their own case, dispence with all Oathes, Civill, Military, Religious,

(witnesse

(with reverence Master Marshall and Master Downing) we are now (though that other Ordinance were taken) must not be examined according to the misinterpretation of Men, but How then? surely according to the Interpretation of Divells. They complained that Excommunication was used for trivial Causes, yet themselves stick not to cast abroad this thunderbolt, for Pewling, or Dancing, or any the least Abhorrations. They complaine of severity against their Pastors; yet themselves do teach in their own case, that they are more rigorously to be dealt withall, who poyson the Soules of Men with false Doctrine, then they that infect their Bodyes with poyson. A false Principle I confesse, and repugnant to the practise of all the world: then are willingly perverted, but not willingly poisoned. The Poisoner knoweth the power of his Poisons, the false Teacher doth not always know his own Error. Repentance may be a Remedy for the one, but there is no Cure for the other. The Diseases of the Soule, are indeed greater then the Diseases of the Body, if you consider them in the same Degree; otherwise, a fullen fit of Melancholy (though a infirmity of the Mind) is not so

terrible as a raging fit of the Stone, yet is it but an infirmity of the Body. They cry out against the Disorders of our Ecclesiasticall Courts, but will not see the beame in their own Eye, that in their Consistories the same man is both President and Register, the same Parties both Accusers, Witnesses, and Judges; the proof sometimes upon Oath, sometimes without Oath, sometimes taken publikely, sometimes privately, so as the Person accused neither knowes who is his Accuser, nor what is proved; sometimes Records are kept, sometimes not kept, As for matter of lawfull exception and defence, it is accounted superfluous and superstitious. I plead not for any former abuses, I desire not to abridge the lawfull power of any other Church, but onely shew the extreame Partiality of these Men. Yea, what is that which themselves have condemned in others, that themselves do not practise where they have power in a much higher Degree? Is not this fine *hocus pocus? a Man and no Man, hit a bird and no bird, with a stone and no stone, on a Tree and no Tree.* In this Riddle there may be something in Nature which seems to be intermedious, to salve the contradiction in shew,

but

but in their case no manner of Difference to make the same thing just and unjust, but Self-love and Partiality. Was it Treason in the Northern Rebells to make an Insurrection, and is it now become Piety? I delight not in Domestical Examples, let us rather cast our eyes beyond Sea, and see where ever Protestants were accused for Rebellion, but where either Anabaptisme, or this Discipline did take place, and yet none of them (I except onely Anabaptists) were halfe so criminous as ours. They had sundry pleas, which we cannot make for our selves. As first, that they did not rise up against their lawful Prince, but onely against a Protector to whom they did owe no Allegiance, but an honorable Acknowledgement; but our Laws binds us not onely to owe Allegiance, but to swear it. Or secondly, that they did not rise up against the Person of their Prince, but against some enraged Minister of his, reserving still their Obedience to their Soveraigne inviolate; but we have not onely resisted, but invaded the Kings Person. There were more great shot made at the very place where the King was at *Edge-hill*, then the same proportion of

Ground

Ground throughout the Field, the verie like Courtesy was offered to the Queen as *Buchanan* saw, to welcome her into *England*: Outwardly their Princes did go about to force their Consciences without Law, or against Law; and by an Arbitrary Power set up an Inquisition among them; but good King *Charles* is so farre from this, that for the ease of his Subjects, he hath taken away an High Commission established by Statute, and is still ready to condiscend to any thing that can be reasonably proposed for the ease of tender Consciences. What is it then? Hath His Majesty been a hard Master? No. Heare a Witnesse that will not violate his Conscience to doe His Majesties service. *I see many here, the most notoriously obliged, indeed as much as Servants can be to a Master, in this good Cause, have observed those vulgar Considerations, and had the Courage to despise him* (that is the King) *to his Face.* All good Panegyricks, and His Majesty has layd him to requite them, as *Caesar* did *Labienus* the Traytor, when his Sonne had slain *Edmund Ironside*, and he saluted the King with *Ave Rex solus*, his Reward was a Good Gibbet, *Ego te bodie ob tanti Obsequii meritum*

cunctis

These Seditions and Schismes shall be eternized, were not the Tables of all speculative, and using good Judgements, hurried after the excuse of Treasons, or the defence of banished Persons; when a Pamphlet, produce the new Opinions, and Reasons prepostorously follow'd the Dictates of the Will, there is small hope of Truth. When Men of Belial, Factious Persons, have shaken off the yoke of a just Government, being neither Pretenders to themselves in point of Right, nor capable of Sovereignty by reason of their obscurity, that they might retaine that in part, which they could not grasp in the whole; they broached these desperate Devises of the Omnipotency of the People: when others, of the same Men, either having expelled Bishops to gaine their Revenues, upon pretence of Superstition, or living under a Soveraigne of another Communion, could not have Bishops of their owne, and yet did find the necessity of Discipline, then they fancyed the new form of Presbiteries, in imitation of the Jewish Synedrium throughout their Synagogues, though that be most unwarrantable and all Men know

this

this for certain, that the Synagogues were but humane Institutions, Acts 15. 21. not from the Law, but from old Time. Which new form of Discipline, was so adapted and accomodated to the Politicke State of the Citty of *Geneuah*, that (as it was there established) it cannot possibly fit any other place, except it have fower *Syndicks*, a greater & a lesser Councell: Then (as all Sects are modest in their beginnings) they desired their Neighbour Churches onely to certifie that their Discipline was not repugnant to the word of God; yet now they would obtrude it on the world as the Eternall Gospell. So our new upstart Independents, which run gadding about the World like Lapwings with their shels upon their Heads, having been kept under the hatches here in old *England*, performing their divine Offices in Holes and Corners, and having no Assemblyes but such as did of their own accord associate themselves to them, now deny the name of true Churches to all Societies but such blind Conventicles: And shall we make their excuses to be our grounds? shall we that live in the most temperate part of the temperate Zone, & injoy a Government as temperate

rate

rate as the Climate it selfe, we who cannot complain either of too much Sun, or too little Sun, where the Beames of Soveraignty are neither too perpendicular to scorch us, nor yet so oblique but that they may warm us, shall we goe about in a madding humour, to dissolve a frame of Government, which made our fore-Fathers happy at home, and famous abroad? shall we whose Church was the Envy and Admiration of Christendome, neither too garish, nor too sluttish, excelling some as far in Purity, as it did others in Decency, now learn Religion out of Tubbs, as if the little toes could see further then the eyes? If they have an extraordinary calling, where are their Miracles? *mendacia video miracula non video*, we heare there lyes, not see their wonders. Saint *Paul became all things to all Men*, but that was *compatiendo non mentiendo*, as S^t. *Augustine* saith. Shall we without need put our lifes into the hands of crackbrain'd unskilfull Empericks? which have taught us already to our losse, that a new Phisitian must have a new Church-yard: rather *mutemus clipeos*, let us leafe them old *England*, and content our selves with new *England*. It will be better to live in hollow

Trees, among Savages and Wild Beaſts, then here, to be chopping and changing our Religion every new Moon. Be not deceived, as if theſe men did deſire no more, then onely the rectifying of ſome former Obliquities and Irregularities: we are now told in plain Engliſh, that it is *to ſubdue the pride of Kings*, Monarchy it ſelfe is the onely Object worthy of theſe men Wrath. May not one here exclaime (as the great Turk did to his Councell, when the Templers and Hoſpitaliers adviſed him by letter, how *Fredericke* the Chriſtian Emperour might be taken) *Ecce fidelitas Chriſtianorum*, behold the Loyalty of our great Reformers! But what is this pride of Kings? If we will believe one of their Authors in his application of the Story of *Cleomedes* his Daughter, to the Domeſtick Cuſtome of the Spartan *Kings*, (*pater hoſtes, manus non habet*,) it is a one piece of their pride to have a man to pull off their ſhooes, and yet they ſay the Author had one to bruſh his Cloathes. Now they ſtick not to let us know why they maligned Epiſcopacy; whileſt Biſhops ſtood, they could not fill all the Pulpits of the Kingdome with their Seditious Oratours, who might incite

the

the people that *their zeal to God may not be interrupted by their Duty to the King*, that by the Christian Labours of their painfull Preachers, *they may not want hands to bring their wishes to passe*, (they are their own words.) Is this the reason we have not a word of Peace and Charity from that Party, but all Incentives to Warr, and to joyn *in making that great Sacrifice to the Lord.* Yet whilest they are so busy in in getting hands, (too many of them perjured hands,) let them remember *Rodolphus* the Duke of *Sweveland* his hand in *Cuspinian*, who being drawn into a rebellious Warre against the Emperour, and in the Battell having his right Hand cut off, held out the Stump to those that were about him, saying, *I have a just reward of my Perjury, with this same Hand I sware Allegiance to my Soveraigne Lord.* Yet the good Emperour buried him Honourably, which being disliked by some of his Friends, he replied, *utinam omnes mei Adversarii eo ornatu sepulti jacerent.* We have sworn Allegiance as well as he, and God is the same he was, a severe Avenger of Perjury. Onely *Zedekias* of all the Kings of *Judah* (a perjured Person to *Nebuchadnezzar*) had his eyes put out, be-

cauſe (ſaith one) he had not that God by whom he ſware before his eyes. Another inſtance of Perjury we have in *Uladiſlaus*, when *Huniades* had made Truce with *Amurath* for ten yeares, the King by the incitement of Cardinall *Julian*, did break it; the Turk in diſtreſſe, ſpreads the Articles towards Heaven, ſaying, *O Jeſus, if thou be a God, be avenged of theſe falſe Chriſtians*; preſently the Battell turned, *Uladiſlaus* was ſlaine in the Fight, the Cardinall in flight. When God had juſtly puniſhed *Corah* and his rebellious Company, the Common People murmured againſt *Moſes* and *Aaron*, ſaying, *Ye have killed the Lords People. Numb.* 16. 49. What was the Iſſue? the Lord ſent a Plague which ſwept away fourteen thouſand and ſeven hundred of them: So dangerous a thing it is onely to juſtify Traytors. Doſt thou deſire to ſerve God purely according to his word? So thou mayeſt without being a Traytour to thy Prince, if our practiſe were but conformable to the truth of our Profeſſion, we might challenge all the Churches in the World. God Almighty lighten the eyes of all thoſe that mean well, that we may no longer ſhed one anothers blood,

to

to effect the frantick Designes of Fanaticall Persons, and by our contentions, pull down what we all desire to build up, even the Protestant Religion, the Law of the Land, and the Liberty of the Subject.

Treason never yet wanted a cloake, we are not to judge of Rebells by their Words, but by their deeds; their voice is *Jacobs* voice, but their hands are the hands of *Esau*. *The Adulterous woman eateth and wipeth her mouth, and saith, what have I done?* yet sometimes God suffers the contrivers of these Distractions, unwittingly to discover themselves, that unlesse we doe willfully hoodwinke our eyes, we cannot but see their aimes. Among others, that Speech which exhorts us to subdue the pride of Kings; to purchase a Parity in the Church with a parity in the State; to shed the blood of the ungodly; that sleights all former Oaths and Obligations, and vilifies the Laws of the Land as the inventions of men: may be a sufficient Warning-Piece to all Loyall Subjects and good Christians. And so may the late Petition be, though from meaner Hands to a Common Councell, wherein they doe nakedly and professedly fall

upon

upon His Majesties Person without any Mask, and sawcily and traytorously propose the alteration of the Civill Government, which every true-hearted English Man will detest. Say not these are poor vulgar Fellowes: These have been the Intelligences that have of late turned the Orbe of our State about, or at least the visible Actors. And who sees not that this is cast abroad thus by the cunning of their sublimated and Mercuriall Prompters, to try how it will rellish with the palate of the People, as an Introduction to their actuall Designe, that when it comes to passe, the World may not wonder at it as a Prodigie. So was it given out among the People by *Richard* the third, that his Wife was dead, when she was in good health: but she wisely concluded what was intended by her kind Husband to be her next part. Where are our English Hearts? why doe we not at last all joyn together, to take a severe account of them who have blemished our Parliament, subjected our Persons and Estates to their arbitrary Power, who have sought to de-throne our Soveraigne, and to robbe us of our Religion, Laws, and Liberties? But now to the Observator.

*Observer*

## Observer.

*IN this Conteſtation between Regall and Parliamentary power, for method ſake, it is requiſite to conſider, firſt of Regall, then of Parliamentary Power, and in both to conſider the efficient and finall Cauſes, and the meanes by which they are ſupported.*

*Anſwer*

Stay, Sir before we enter into theſe Conſiderations, let us remember the Rule in Rhetorick, *cui bono*, what advantage will this inquiry bring us? Doe you deſire to be one of the *Tribunes or Ephori* of *England* to controule your King? or would you have the great Oake cut down, that you might gather ſome ſticks for your ſelfe? Thus we are told lately, *the wiſeſt men will not thinke themſelves uncapable of future Fortunes, if they uſe their uttermoſt power to reduce him* (that is the King) *to a neceſſity of granting*. Or would you have us play the *Guelphes* and *Gibellines*, to cut one anothers throats for your paſtime? Pardon us Sir, we cannot thinke it ſeaſonable now when poore *Ireland* is at the laſt gaſpe; and *England* it ſelfe lies a bleeding,

bleeding, when mens minds are exasperated by such Trumpeters of Sedition, to plunge our selves yet deeper in these Domestick Contestations; what could the Irish Rebells desire more? Comparisons are always odious, but Contestations are worse, and this between a King and His Parliament worst of all. This dismall question did never yet appeare in this Kingdom, but like a fatall Screech-owle, portending blood, Death, and publique Ruine. This was the Subject of the Barons Warre: the consequent of this in the wrong offered to a lawfull Prince, was the fountain of those horrid Dissentions between the red Rose and the White, which purpled all our English Soile with native Blood, we have had too much of this already. Halfe of that Money which of late hath been spent, of that blood which hath been shed about this accursed Controversie: would have regained *Ireland*, and disingaged *England*; whereas now the sore festers dayly more and more under the Chirurgeons Hands. Our Fore fathers have setled this question for us, we desire to see what they have done, before we goe to blindmans buffet one with another: If it hath been composed well, or but indifferently, it is better then Civill Warr: And though it had not, when the jarring strings of mens minds are turned again, it is probable it may sleep for ever. It were much better to put it off as the *Areopagites* did knotty questions to a very long Day; or with the Jews for *Elias* to resolve when he comes.

But good Sir, if it may be without offence satisfie me in one doubt, what Sect you are of? whether some newly sprung up Mushrome, or you derive your self from those Non-Conformists, which were in the

Dayes

Dayes of Queen *Elizabeth* and King *Iames*. They have ſolemnly Proteſted in Print, that [a] *no Chriſtians under Heaven, doe give more to the Regall Supremacy then they*; yea, [b] *without Limitation or qualification*, that for the King [c] *not to aſſume ſuch a power, or for the Churches within his Dominions to deny it, is damnable Sinne* (mark it) *although the Statutes of the Kingdom ſhould deny it him* (and Statutes are more then bare Votes.) That *it is not tyed to their Chriſtianity, but their Crown, from which no Subject or Subjects have power to ſeperate it.* If no Subjects collectively, then not one or both Houſes. But they goe further, and I pray you make it one of your Obſervations; that [d] *though the King command any thing contrary to the Word of God, yet we ought not to reſiſt, but peaceably forbear Obedience and ſue for Grace, and when that cannot be obtained meekly ſubmit our ſelves to puniſhment.* How you have practiſed this of late, the World ſees, and this Kingdom feels. They declare, That [e] *it is utterly unlawfull for any Chriſtian Churches by armed Power againſt the will of the Civill Magiſtrate, to ſet up in publique the true worſhip of God, or ſuppreſſe any Superſtition, or Idolatry.* They abjure all Doctrines repugnant to theſe as [f] *Anabaptiſticall and Antichriſtian.* They condemne all practiſes contrary to theſe, as [g] *Seditious and ſinfull.* I forbear ſundry other things avouched by them in the ſame Proteſtation, as that [h] *the King onely hath power within his Dominions to convene Synods of Miniſters, and by his Authority Royall, to ratifie their Canons*, yea, that if it ſhould pleaſe the King and Civill State to continue Biſhops, [i] *they could be content without envy, to ſuffer them to injoy their State and Dignity, and to*

a In the face.
b. Pag.
c. Pag.
d. pag.
e. pag.
f. pag.
g. pag.
h. pag.
i. pag.

*live as Brethren with those Ministers that should acknowledge homage unto them.* By this time I suppose you have enough of the Protestation, my quære is but short, whether you can change your Doctrine as the *Chamælion* her colours, according to the present exigence of Affaires? or will acknowledge your opinions to be *Anabaptisticall and Antichristian*, your practise *Seditious and Sinnefull*, in the Judgement of your Predecessors.

And yet I am not ignorant, that both before, and after, and about the time of this Protestation, a Cockatrice Egge was hatching; when a Subject durst stile the great Senate under which he lived, *tumultuosa* .Ep.40- *perditorum hominum factio*, a tumultuous Faction of p.10. desperate Men; and the Judges *discordiarum Duces*: then the Mistery began to work closely, but shortly after it shewed it selfe openly, when his Successor did publish to the world, that *if Kings observe not those* jure *pactions to which they were sworn, subordinate Magi-* ist. pag. *strates have power to oppose them, and the Orders of the* 95. *Kingdom to punish them if it be needfull, till all things be restored to their former Estate. That what power a Generall Councell hath to depose a Pope for Heresy, the same the People have over Kings, that are turned Tyrants.* A wofull Argument drawn from an elective Pope, to an hereditary King, from a free and œcumenicall Councell, to a Company of limited and sworne Subjects, from an action grounded on known Law to an Arbitrary Proceeding. The Kings Crown sits closer, The Councells Power is greater. The like Law is wanting. Others teach *that the People* .de ju- *must bridle Princes if the Nobility will not.* Our Coun- ni, p. 57

tryman

tryman *Cartwright* ſpeakes very ſuſpitiouſly, *To think the Church muſt be framed according to the Common-wealth, and the Church Government according to the Civill Government, is as if a man ſhould faſhion his houſe according to his hangings; whereas indeed it is cleane contrary; that as the hangings are made fit for the houſe, ſo the Common-wealth muſt be made to agree with the Church, and the Government thereof with her Government.* Reply Whitg pag. 18 Adde to this their other tenet; that the Government of the Church with them is Democraticall, or at beſt but Ariſtocraticall, and what will follow? that the Civill Government muſt be the ſame, or at the leaſt if it be inconſiſtent with the form of Diſcipline which they fancy, it muſt be regulated and conformed thereunto. I omit the Trayterous Opinions of *Goodman, Gilby, Whitingham*, teaching Sheriffes and Jailers to let looſe them whom they call Saints; teaching Subjects to reduce their Soveraignes into order by force, to depoſe them, or put them to Death. But theſe ſeditious principles were ſuppreſſed then by the Learning and Authority of *Grindall, Sands, Parkhurſt, Jewell, Beacon, Nowell, Coxe, Barlow*, &c. who being exiled for Religion, at *Franckford* accuſed *Knoxe* of High Treaſon about them, and put him to make uſe of his heeles. Let this very Confuſion of them in this matter be a warning to us, *how we have the faith of our Lord Jeſus Chriſt in reſpect of Perſons*, or be ſo glued to the Perſons of our Teachers, that we ſuck up their errors as greedily as their good Leſſons, forgetting that they were but men, and that particular Relations and Ingagements, have an inſenſible influence upon the beſt temper'd minds. James

Obſerver

*The King attributes, the originall of his Royalty to God and the Law, making no mention of the grant, conſent, or truſt of Man therein; but the the truth is, God is no more the Author of Regall, then of Ariſtocraticall Power, nor of Supreme, more then of Subordinate Command. Nay, that Dominion which is uſurped and not juſt, yet while it remaines Dominion, and till it be again legally diveſted, refers to God, as to the Authour and Donor, as much as that which is hereditary.*

*Anſwer*

That Royalty and all lawfull Dominion conſidered in the abſtract, is from God, no Man can make
13.1. any doubt, but he who will oppoſe the Apoſtle, *the powers that be are ordeined of God*; and God himſelfe
8.15. who ſaith, *by me Kings raigne and Princes decree Juſtice.* But the right and application of this Power and Intereſt in the concrete to this particular man, is many times from the grant and conſent of the People. So God is the principall Agent, man the Inſtrumentall; God is the Root, the Fountain of Power; Man the Stream, the Bough by which it is derived; the Eſſence of Power is alwayes from God, the Exiſtence ſometimes from God, ſometimes from Man: yet Grant and Conſent differ much, and Conſent it ſelfe is of ſeverall kinds, explicite or implicite, antecedent or ſubſequent, a long continued Preſcription or Poſſeſſion of Soveraignty, without Oppoſition or Reluctation

ration, implies a full Consent, and derives a good title of Inheritance, both before God and Man. These grounds being laid, take notice of fower grosse Errors, which the Observer runns into in this Section.

First he supposeth that all Dominion, is from the grant or consent of the People; whereas in truth all Dominion in the abstract is from God. The People could not give what they never had, that is, power of Life and Death: But true it is, that Magistrates in the concrete, are stiled *the Ordinance of Man*; 1 Pet. 2. 13. subjectively because they are Men, objectively because they raigne over Men, and many times effectively, because they are created or elected by Men. But this last holds not in all cases, I say nothing of such Kings as were named immediately by God: Those whose Predecessors or themselves have attained to Soveraignty by the Sword, by Conquest in a just Warre, claime immediately from God. Those also who were the first Owners or Occupants of waste Lands, might admit Tenents or Subjects upon such Conditions as they themselves would prescribe. Thirdly, those who plant at excessive Charge in remote parts of *America*, will give and not take Laws from their Colonies. Fourthly, upon the spreading of a numerous Family, or the great increase of Slaves and Servants, *ditis examen domus*, how often have the Fatherly or Magistrall power been turned into Royalty? And though these were but petty Kingdoms at the first; yet as great Rivers grow from the Confluence of many little Brooks; so by Warrs, Marriages, and Treaties, they might be enlarged. In all these Cases there is

no

no Grant of the people. This is one Error.

His Second Error rests in the *Hypotheſis*; His Majeſties originall Title to this Kingdome was not Election, either of the Perſon, or of the Family, but Conqueſt, or rather a Multitude of Conqueſts, the very laſt whereof is confirmed by a long Succeſſion of foure and twenty royall Progenitors and Predeceſſors, glorious both at home and abroad, in Peace and War, except when this diſmall and diſaſterous queſtion, did eclipſe their luſtre, and hinder the happineſſe of this Nation, in the Dayes of King *John*, *Henry* the third, *Edward* and *Richard* the ſecond, or in the bloody Warres between the two Houſes of *Yorke* and *Lancaſter*, which were nothing elſe but the fruits and conſequents thereof. Neither can the Obſerver colleſt from hence, that this is to enſlave our Nation as Conquered Vaſſalls. It is a groſſe fallacy to diſpute *a dicto ſimpliciter ad dictum ſecundum quid*, from the right of abſolute Conquerers, to His Majeſty now, as if ſo many good Lawes, ſo many free Charters, ſo many acts of Grace in ſo long a ſucceſſion had operated nothing. This is a ſecond Error.

Thirdly, the Obſerver teacheth, that ſubordinate Commmand is as much from God as Supreme. His Majeſty is much bound unto him, to make his Royall Commands of no more force by Gods Inſtitution, then a Petty Conſtables. We have hitherto learned otherwiſe, that Kings hold their Crowns and Sceptres from God, and ſubordinate Magiſtrates have their places by Commiſſion from them. But it is familiar with theſe men, to leap over the backs of intermedious

medious Causes, and derive all their fancyes from God as the Heathens did their Genealogies: whereby they destroy the Beauty and Order of the World, and make many superfluous Creatures, which God and Nature never made. In summe, Subordinate Commands are from God, yet neither so immediately, nor so firmely as supreme: but *as a row of Iron rings touching one another, and the first touching the Load-stone, in their several degrees, some more loosely, some more remotely then others*; The case is not altogether like for Regall and Aristocraticall Power: One God in the World, one Soule in the Body, one Master in a Family, one Sun in the Heaven, and anciently one Monarch in each Society. All the first Governours were Kings. Both Forms are warranted by the Law of Nature, but not both in the same Degree of Eminency. If an old Man had the eye of a young Man, he would see as well as a young Man (said the Philosopher) the Soule of an Ideot is as rationall, as the Soule of a States man, the difference is in the Organ: So the Soule of Soveraign Power, which is infused by God into Democracy or Aristocracy, is the same that it is in Monarchy: but seeing the Organ is not so apt to attain to the end, and seeing that God and Nature do alwayes intend what is best; and lastly, seeing that in some Cases the existence of Government as well as the essence is from God, who never instituted any form but Monarchicall, the Observer might well have omitted his comparison. *Philo.*

The fourth and last Error is worst of all, [*That usurped and unjust Dominion is referred to God as its Authour and Doner, as much as hereditary.*] This is down-

right; we have been taught otherwise, before a few vaine upstart Empericks, in Policy troubled the world that Dominion in a tyranicall Hereditary Governour, is from God even in the concrete, (I mean the power not the abuse) that such an one may not be resisted without Sinne, that his Person is sacred: But contrarywise, that Dominion in a tyranicall Usurper or Intruder is indeed from God permitting, wheras he could restrain it, if it pleased him; or from God concurring by a generall influence, as the Earth giveth nourishment to Hemlocks, as well as Wheate, *in him we live, we move, and have our being*, or from God ordering and disposing it as he doth all other accidents and events to his own glory; but that it is not from God as Author, Donor, or Instituter of it. Neither dare we give to a Tyranicall Usurper the essentiall Priviledges of Soveraignty; we deny not that any Subject may lawfully kill him as a publicke Enemy without legall eviction. Much lesse dare we say with the Observer, that Power usurped and unlawfull, is as much from God, as Power Hereditary and lawfull. If it be so, cough out man, and tell us plainly, that God is the Author of Sinne.

Observer

*And the Law which the King mentioneth, is not to be understood to be any speciall Ordinance sent from Heaven by the Ministery of Angells or Prophets, as amongst the Jews it sometimes was. It can be nothing else among Christians, but the pactions and agreements, of such and such Corporations.*

Answer

*Answer.*

There is a double right considerable; the right to the Crown, and the right of the Crown: the right and title to the Crown is with us undoubted, there needs no Angell from Heaven to confirme it, where no man can pretend against it. The Right of the crown is the onely subject in question. This is from the Law of God, the Law of Nature, and the Law of Nations. That this Power in an absolute Conquerer may be limited by Statutes, Charters, or municipall Laws, in Court of Conscience, in Court of Justice, to God, to his People, I grant, without communicating Soveraigne Power to subordinate or inferiour Subjects, or subjecting Majesty to censure: Which Limitation doth not proceed from mutuall pactions, but from acts of Grace and Bounty. I would know to what purpose the Observer urgeth this distinction of Laws, will it alter the State of the question, or the obligation of Subjects? Nothing lesse. Whether the calling of the Prince, be ordinary or extraordinary, mediate or immediate, the title of the Prince, the tye of the Subject is still the same. Those Ministers who were immediately ordeined by Christ or his Apostles, did farre exceed ours in personall perfections: but as for the Ministeriall Power, no tract of time can bring the least diminution to it. God was the first Instituter of Marriage; yet he never brought any couple together but *Adam* and *Eve*; other marriages are made by free election: yet for as much as it is made by vertue and in pursuance of Divine Institution, we doe not

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doubt

doubt to say and truely, *those whom God hath joyned together*. His Majesties title is as strong, the obligation and relation between him and his Subjects is the very same, as if God should say from Heaven, take this Man to be your King. Again, if the Libertie of the Subject be from Grace, not from pactions or agreements, is it therefore the lesse? or the lesse to be regarded? what is freer then gift? if a Nobleman shall give his Servant a Farme, to pay a Rose or Peppercorn for an acknowledgement, his title is as strong as if he bought it with his Money. But the Observer deales with his Majesty, as some others doe with God Almighty in point of merit; they will not take Heaven as a free gift, but challenge it as Purchasers. In a word, the Authour of these Observations, would insinuate some difference betwixt our Kings and the Kings of *Israell*, or some of them who had immediate vocation, wherein he would deceive us or deceiveth himselfe, for their request to *Samuell* was *make us a King to judge us like all other Nations*.

1 Sam. 8. 5.

## Observer.

*Power is originally inherent in the People, and it is nothing else but that might and vigour, which such or such a society of Men containes in it selfe; and when by such or such a Law of common consent and agreement, it is derived into such and such hands, God confirmes that Law: and so Man is the free and voluntary Author, the Law is the Instrument, and God is the Establisher of both: and we see, not that Prince, which is most potent over his Subjects, but that Prince which is*

*most*

*most potent in his Subjects, is indeed most truely potent; for a King of one small Citty, if he be intrusted with a large Prerogative, may be said to be more potent over his Subjects, then a King of many great Regions, whose Prerogative is more limited: and yet in true reality of Power, that King is most great and glorious, which hath the most and strongest Subjects, and not he which tramples upon the most contemptible Vassalls. This is therefore a great and fond error in some Princes, to strive more to be great over their People, then in their People: and to Eclipse themselves by impoverishing, rather then to magnifie themselves by infranchising their Subjects. This we see in France at this Day, for were the Peasants there more free, they would be more rich and magnanimous, and were they so, their King were more puissant; but now by affecting an adulterate power over his Subjects, the King there loses a true power in his Subject, embracing a Cloud instead of* Juno.

*Answer.*

It hath ever been the wisdome of Governours, to conceal from the promiscuous multitude its own strength, and that rather for the behoof of themselves then of their Rulers. Those Beasts which are of a gentle and tractable Disposition, live sociably among themselves, and are cherished by Man; whereas those that are of a more wild and untameable nature live in continuall Persecution and Feare of others, of themselves: but of late it is become the Master-piece of our Modern Incendiaries, to magnifie the power of the People, to break open this Cabinet of State, to Sect. 4

prick forward, the headie and raging multitude, with fictitious Deviſes of Bulls and Minotaurs. And all this with as much ſincerity, as *Corah*, *Dathan*, and *Abi-*
*mb.* 16. *ram* ſaid to *Moſes*, and *Aaron*, *you take too much on you*
& 10. *ſeeing all the Congregation are holy*. I deſire the Ob-
*o, lib.* 6. ſerver at his leiſure, to reade *Platoes* deſcription of
*Repub.* an Athenian Sophiſter, and he ſhall find himſelfe per-
*ing* 18. ſonated to the life, that one egge is not liker another:
& if the Coate fit him, let him put it on. The Scrip-
5. 2. ture phraſeth this to be *troubling* of a Church, or of a State: It is a Metaphor taken from a Veſſell wherein is Liquour of ſeverall parts, ſome more thick, others more ſubtile, which by ſhaking together is diſordered, and the dreggs and reſidence is lifted up from the bottome to the toppe. The Obſerver hath learned how to take Eeles; It is their own Rule, they that would alter the Government, muſt firſt trouble the State.

Secondly, *poſito ſed non conceſſo*, admitting, but not granting, that Power is originally inherent in the People, what is this to us who have an excellent forme of Government eſtabliſhed, and have diveſted our ſelves of this Power? can we play faſt and looſe and reſume it again at our pleaſures? *Lesbia* was free to chooſe her ſelfe an Husband when ſhe was a Maide, may ſhe therefore doe it when ſhe is a Wife? Admitting that His Majeſty were elected in His Predeceſſors, yea or in His own Perſon for him and His Heires, is this Power therefore either the leſſe abſolute or leſſe perpetuall? Admitting that before election, we had power to covenant, yea, or condition by what Laws we would be governed, had we therefore power

to

to condition that they ſhould be no longer Laws, then they liſted us? This were to make our Soveraigne not a great and glorious King, but a plain Chriſtmaſſe Lord: or have we therefore Power ſtill to raiſe Arms to alter the Laws by force, without Soveraigne Authority? This ſeems to be the Obſervers main Scope, but the concluſion is ſo odious, (as which hath ever been confeſſed Treaſon) and the conſequence ſo miſerably weak, that he is glad to deale altogether Enthemematically.

Thirdly, admitting and granting that the laſt exerciſe or execution of Power, that is the *poſſe commitatus*, or *Regni*, is in the People, is the right alſo in the People, or from the People? Excuſe us if we rather give credit to our Saviour, *Thou could'ſt have no Power at all againſt me, except it were given thee from above.* If *Pilate* had his Power from Heaven, we may conclude ſtrongly for King *Charles*; *Nil dat quod non habet*, ſome power the People *qua talis* never had, as power of Life and Death, it is the peculiar right of God and his Vicegerents. Put the caſe the King grants to a Corporation ſuch and ſuch Magiſtrates, with power alſo to them to elect new magiſtrates (which yet holds but ſomtimes) from whom do thoſe Magiſtrates hold their power? not from the People who elect them, but from the King who creates them. John 19.

Fourthly, you tell us that the Power of a King, is to have powerfull Subjects, and to be powerfull in his Subjects, not to be powerfull over his Subjects. Your reaſon halts, becauſe it wants a *cæteris paribus*: ſeveral Kings may have ſeverall advantages of greatneſſe. The truth is, neither many powerfull Subjects without obedience, nor forced obedi-

obedience without powerfull and loving Subjects, do make a great and glorious King: But the concatenation of Superiours and Inferiours in the Adamantine bonds of Love and Duty. When Subjects are affected, as *Scillurus* would have his Sonns for concord as *Scipio* had his Souldiers for obedience, which they priſed above their lifes, being ready to throw themſelves from a Tower into the Sea at their Generall command: this is both to be great in Subjects, and over them. The greateſt Victoryes, the greateſt Monarchyes, are indebted for themſelves to this lowly beginning of obedience. It is not to be a King of Kings, nor a King of ſlaves, nor a King of Devills, (you may remember to whom that was applied,) but to be the King of Hearts, and Hands, and Subjects, of many rich, loving, and dutifull Subjects, that makes a powerfull Prince. As for the preſent puiſſance of *France*, can you tell in what Kings Reigne it was greater ſince *Charlemaine*? Nevertheleſſe admitting that the Peaſants in *France* (as you are pleaſed to call them) ſuffer much: yet nothing neare ſo much as they have done in ſeditious times, when Civill Warrs raged among them, (when their Kings had leſſe power over them,) which is our caſe now. God bleſſe us from Tyrany, but more from Sedition. If the Subjects of *France* be Peaſants, and the Subjects of *Germany* be Princes, God ſend us Engliſhmen to keep a mean; between both extremes, which our Fore-Fathers found moſt expedient for all parties.

*Obſerver.*

Obſerver.

*But thus we ſee that Power is but ſecondary and derivative in Princes the Fountain and efficient cauſe is the People, and from hence the inference is juſt, the King though he be* ſingulis Major, *yet is he* univerſis Minor, *for if the People be the true efficient cauſe of Power, it is a Rule in Nature,* quicquid efficit tale eſt magis tale. *And hence it appears that at the founding of authorities, when the conſent of Societies conveyes rule into ſuch and ſuch Hands, it may ordaine what conditions, and prefix what bounds it pleaſes, and that no diſſolution ought to be thereof, but by the ſame power by which it had its Conſtitution.*

*Anſwer.*

Thus we ſee your Premiſſes are weake and naught, your argument proceeds from the ſtaffe to the corner, and your whole diſcourſe is a Rope of Sand. Firſt, your ground-work (that the People is the Fountain and efficient of Power) totters, and is not univerſally true. Power in the abſtract is not at all; Power in the concrete is but ſometimes from the People, which is rather the application of power then Power itſelfe. *Sect.* 5.

Next, your inference from hence which in this place you call *juſt*, and a little after ſay, that *nothing is more known or aſſented unto*, that the King is *ſingulis major* but *univerſis minor*, greater then any of his Subjects ſingly conſidered, but leſſe then the whole collected Body, is neither juſt, nor known, nor aſſented unto unleſſe in

that

that Body, you include His Majeſty as a principall Member. And yet if that ſhould be granted you, before it would doe you any good, theſe *univerſi*, or this whole Body, muſt be reduced to the Major or greater part, and this diffuſed and eſſentiall Body muſt be contracted to a repreſentative Body (unleſſe we may believe your new Learning, that the Eſſentiall and Repreſentative Body are both one.) But waving all theſe advantages, tell me Sir, might you be perſwaded to follow *Licurgus* his adviſe, to try this Diſcipline at home, before you offer it to the Commonwealth? could you be contented that all your Servants together, or the Major part of them had power to turne you out of your Maſterſhip, and place your Steward in your roome; or your Children in like caſe depoſe you from your Fatherhood? No I warrant you, the caſe would ſoone be altered. And when the greateſt part of the ſheep diſlike their Sheepheard, muſt he preſently put up his Pipes and be packing? Take heed what you doe, for if the People be greater then the King, it is no more a Monarchy but a Democracy. Hitherto the Chriſtian World hath believed, that the King is *poſt Deum ſecundus* the next to God, *ſolo Deo minor*, onely leſſe then God, no Perſon, no Body Politick between; that he is *Vicarius Dei*, Gods Vicegerent. The Scriptures ſay, that Kings reigne not over Perſons, but *Nations*; that Kings were anoynted over *Iſraell*, not *Iſraelites onely*. *Saul* is called the head of the *Tribes of Iſrael*. Our Laws are plain, we have all ſworn that the Kings Highneſſe is the *onely Supreme head*, if Supreme, then not ſubordinate; if onely

Sam 15.17

Supreme,

Supreme, then not coordinate; *and Governour of this Realme*, His Highneſſe is Supreame Governour, that is, in his Perſon, in his Chamber, as well as in his Court. The ancient Courts of England, were no other then the Kings very Chamber and moveable with him from place to place, whence they have their name of Courts. Supreme *Governour of this Realme* collectively, and not onely of particular and individuall Subjects. *In all cauſes and over all Perſons*, then in Parliament and out of Parliament. Parliaments doe not alwayes ſit, many Cauſes are heard, many Perſons queſtioned, many Oaths of Allegiance adminiſtred between Parliament and Parliament. The ſame Oath binds us to *defend him againſt all conſpiracies and attempts whatſoever, which ſhall be made againſt his Perſon or Crown*; to defend him, much more therefore not to offend him; *againſt all Conſpiracies and Attempts whatſoever*, that Oath which binds us to defend him againſt all attempts whatſoever, preſuppoſeth that no attempt againſt him can be juſtified by Law, whether theſe attempts be againſt his Perſon or his Crown. It will not ſerve the turn to diſtinguiſh between his *Perſon* and his *Office*, for both the Perſon and the Office are included in the Oath. Let every Subject lay his hand upon his heart, and compare his Actions with this Oath in the fear of God. When the great repreſentative Body of Parliament are aſſembled, they are yet but his great Councell, not Commanders. He calls them, he diſſolves them; they doe not chooſe ſo much as a Speaker without his approbation: and when he is choſen he prayes His Majeſty to interpoſe his Authority, and command them to pro-



ceed

ceed to a second choise; *plane propter modestiam, sed nunquid contra veritatem?* The Speakers first request is, for the Liberties and Priviledges of the House: His Majesty is the fountain from which they flow. When they, even both Houses do speak to him, it is not by way of mandate, but humble Petition as thus, *most humbly beseech your most excellent Majesty, your faith-*
Lab. 30. *full and obedient Subjects, the Lords spirituall and temporall and Commons, in Parliament assembled*; or thus, *we Your Majesties loving, faithfull, and obedient Subjects representing the three Estates of Your Realme of* England &c. *except we should overmuch forget our Duties to Your Highnesse &c. do most humbly beseech* &c. Here the three Estates of the Kingdom assembled in Parliament doe acknowledge their subjection and their duty, do beseech Her Majesty. Where by the way I desire to know of the Observer, whether that of the three Estates were a Fundamentall Constitution of this Kingdom, and who were the three Estates at this time, and whether a third Estate have not been since excluded? Howsoever, we see they doe but *rogare legem* pray a Law, the King enacts it, and as he wills or takes time to advise, so their Acts are binding or not binding. They challenge no dispensative Power above the Law: he doth. In a word, He is the Head not onely of the Hand or of the Foot, but of the whole Body. These things are so evident, that all our Laws must be burned, before this truth can be doubted of. But to stop the Observers mouth for ever take an Authentick Testimony, in the very case point blanck, *By divers old Authentick Histories and Chronicles, it is manifestly declared, that this Realme of* England *is an*

*Empire,*

*Empire, and ſo hath been accepted in the World, governed by one Supreme Head and King, having the Dignity and royall Eſtate of the Imperiall Crown of the ſame, unto whom a Body Politick compact of all ſorts and degrees of people, divided into terms, and by names of Spiritualty and Temporalty, being bounden and owen next to God a naturall and humble obedience, he being inſtituted and furniſhed by the goodneſſe and ſufferance of Almighty God with plenary, whole, and entire Power, Preeminence, Authority &c.* 24. Hen cap. 12. Now Sir obſerve, firſt that not onely individuall Perſons, but the whole compacted Body Politicke of the Kingdome, are not onely leſſe then His Majeſty, but doe owe unto him a naturall and humble obedience, (how farr is this from that Majeſty which you aſcribe to the repreſentative Body?) Secondly, that the Spiritualty were ever an eſſentiall part of this Body Politick, Thirdly that His Majeſties Power is plenary. Fourthly, that he derives it not from inferiour compacts, but from the goodneſſe of God. It is true, were His Majeſty as the Prince of *Orange* is, or you would have him to be, not a true Poſſeſſor of Soveraigne Power, but a Keeper onely, as the Roman Dictator or an arbitrary Proctor for the People, your rule had ſome more ſhew of reaſon: but againſt ſuch evident light of truth to ground a contrary aſſertion, derogatory to His Majeſty, upon the private authority of *Bracton* and *Fleta*, (no Authentick Authors) were a ſtrange degree of weakneſſe or wilfulneſſe, eſpecially if we conſider, firſt, upon what a trifling ſilly Homonomie it is grounded, *quia comites dicuntur quaſi ſocii Regis, et qui habent ſocium habent Magiſtrum.* If he had called them the

Kings Attendents, or ſubordinate Governours of ſome certain Province or County, as the Sheriffe *Vice Comes* was their Deputy, there had been ſomething reall in it. Secondly, if we conſider, that this aſſertion is as contrary to the Obſervers own grounds, as it is to truth, for what they (*Bracton* and *Fleta*) doe appropriate to the Houſe of Lords *curiæ Comitum & Baronum*, he attributes to the collective Body of the whole Kingdom, or at the leaſt to both Houſes of Parliament: that is farr from the Obſervers meaning and nothing to the purpoſe. This Catachreſticall and extravigant expreſſion, with the amphibologicall ground of it, is either confuted or expounded by the Authors themſelves, as ſaying, *the King hath no Peere*, therefore no Companion; that he is *Vicarius Dei* Gods Vicegerent, that he is not *ſub homine*, under Man. And if the words have any graine of truth in them, they muſt be undeſtood not of an Authoritative, but onely of a Conſultive Power to adviſe him, or at the moſt approbative, to give their aſſent to Laws propounded, he having limited himſelfe to make no Laws without them. So we may ſay a Mans promiſe is his Maſter; as if a man ſhould ſay that the Judges in the Houſe of Peers, who have no Votes, but are meere aſſiſtents, yet in determining controverſies in point of Law, are in ſome ſort ſuperiour to the Lords, not in Power which they have none, but in skill and reſpect of that dependence, which the Lords may have upon their Judgement and integrity.

Neither will your logicall Axiom, *quicquid efficit tale eſt magis tale*, helpe you any thing at all: for firſt your *quicquid efficit* muſt be *quando efficit*. If a cauſe

have

ave ſufficient vigour and efficacy at ſuch time as he effect is produced, it is not neceſſary that it ſhould eteine it for ever after, or that the People ſhould re-ein that power which they have diveſted themſelves of by election of another. To take your caſe at the beſt, they have put the ſtaffe out of their own hands, and cannot without Rebellion and ſinne againſt God, undoe what they have done. Secondly, for your *magis tale*, there is a caution in this Canon, that the ſame quality muſt be both in the cauſe and in the effect, which yet is not alwayes, not in this very caſe, it muſt be in cauſes totall eſſentiall and univocall, ſuch as this is not. The Sun is the cauſe of heat, yet it is not hot it ſelfe: *Sol & homo generant hominem viventem*, yet the Sun lives not. If two Litigants conſent to licenſe a third Perſon to name another for Arbitrator between them, he may elect a Judge, not be a Judge. Yet I ſhall not deny you any truth, when and where the antecedent conſent of free ſocieties not preingaged, doth inſtrumentally conferr and convey, or rather applie power and authority into the hands of one or more, they may limit it to what terme they pleaſe, by what covenants they pleaſe, to what conditions they pleaſe, at ſuch time as they make their election: yet Covenants and Conditions differ much which you ſeem to confound, breach of Covenant will not forfeit a Leaſe, (much leſſe an Empire.) I have ſeen many Covenants between Kings and their People, ſometimes of Debt, and many times of Grace, but I doe not remember that ever I read any Conditions, but with ſome old elective Kings of *Arragon* (if they were King) long ſince antiquated, and one onely King of *Polonia*.

You

You adde and truely, that there ought to be no diſſolution of Soveraignty, *but by the ſame power by which it had its Conſtitution*, wherein God had his ſhare at leaſt: but this will not ſerve your turn, if you dare ſpeak out plainly, tell us, when a King is conſtituted by right of Conqueſt and long Succeſſion, yea or by the election of a free people, without any condition of forfeiture, or power of revocation reſerved (as the *Capuans* gave themſelves to the *Romans*,) and ſo according to your poſition it is *eſtabliſhed by God*, can the People, or the Major part without groſſe Treaſon attempt to dethrone this King, or ſend him a writ of eaſe? They that are ſo zealous in Religion, to have every thing ordered according to the expreſſe word of God, let them ſhew but one Text, where ever God did give this Power to Subjects, to reduce their Soveraignes to order by Arms. If this were ſo, Kings were in a miſerable condition. Conſider the preſent Eſtate of Chriſtendome, what King hath not Subjects of ſundry Communions and Profeſſions in point of Religion? upon theſe mens grounds he muſt be a Tyrant to one party or more. *Moſes* ſeemed a Tyrant to *Korah* and his rebellious Company; Queen *Elizabeth* and King *James* did ſeem Tyrants to *Squire*, *Parry*, *Sommervill*, and the Powder-Traytors. *Licurgus* of whom *Apollo* once doubted whether he ſhould be numbred among the Gods or Men, was well neere ſtoned, and had his eyes put out in a popular tumult. Thus *Barabbas* may be abſolved, and the King of Kings condemned. What Divelliſh Plots would this Doctrine preſently raiſe, if it were received? what murthers and aſſaſſinates would it uſher into the World? eſpeci-

especially considering that the worst men are most commonly active in this kind, to whom nothing doth more discommend a King then his Justice.

Observer.

*As for the finall Cause of Regall Authority, I doe not find any thing in the Kings papers denying, that the same people is the finall which is the efficient cause of it, & indeed it were strange if the People in subjecting it selfe to command, should aime at any thing but their own good in the first and last place. Tis true according to* Machavills *Politicks, Princes ought to aime at greatnesse, not in but over their Subjects, and for the atchieving of the same, they ought to propose to themselves no greater good then the spoyling and breaking the spirits of their subjects, nor no greater mischiefe then common Freedome, neither ought they to promote and cherish any servants, but such as are most fit for rapine and oppression, nor depresse and prosecute any as Enemies, but such as are gracious with the populacy for noble and gallant acts,* And a little after, *His Dignity was erected to preserve the Commonalty, the Commonalty was not created for his Service, and that which is the end, is farre more valuable in Nature and Policy, then that which is the means.*

*Answer.*

Still this Discourse runs upon elective Kingdoms: As for those which have had other originalls, here is a deep silence, *scis tu simulare cupressum, quid hoc?* you can paint a Cypresse Tree, but what is this *Sect. 6.*

to

to the purpose? Let it be admitted that in such Monarchies, the aime of the People is their own Protection, Concord, and Tranquillity, *Rulers are the*
. 13. 4. *Ministers of God for our good*; so on the other side, Soveraigne Princes have their ends also, *who feedeth a*
or. 9. 7. *flock, and eateth not of the milke thereof?* So there are mutuall ends, and these ends on both sides are lawfull and good, so long as they are consonant to the rules of Justice. And though Prince and People doe principally intend their own respective good, yet it were folly to imagine to atteine to such high ends of such consequence and concernment, without the mixture of some Dangers, Difficulties, Troubles, and Inconveniences: as Saint *Ambrose* saith, that since the fall of *Adam*, thornes often grow without roses, but no true roses without thorns: we must take the rose with the thorn, the one with the other in good part, for better for worse, *fructus transit cum onere* the benefit passeth with the burthen. If we can purchase tranquillity which we intend, with Obedience and Subjection which we must undergoe; we have no cause to complain of the bargain. It is a most wretched Government, where one reall suffering, is not compensated with ten benefits and blessings.

Again, this publicke good of the people, is (to use your own phrase) either *singulorum* or *universorum*, publicke or private, of particular Subjects, or of the whole Common-wealth: howsoever the actuall intentions of individuall Members of a Society may aime at the private, yet when these two are inconsistent (as sometimes it falls out) a good Governour must prefer the publick; and particular Members

must

must not grumble to suffer for the generall good of the Body Politick.

But you say the end is farr more honourable then the meanes, and the Preservation of the Commonalty is the end of Regall Dignity. True, but this preservation must be understood, *sub modo*, according to Law, which *is* not alterable at the discretion of humorous Men, but with the concurrence both of King and Subjects. Likewise this is to be understood, where the ends are not mutuall (as here they are) the King for the People, and the People for the King: and where the end is not partiall but adæquate (as this is not.) Lastly, the end is more valuable, how? *qua finis* as it is the end in the intention of the efficient, not alwayes in the nature of the thing. If the Observer had argued thus, the publicke Tranquillity of King and People is the end of Government, therefore more valuable, his inference had been good, but as he argues now, it is a meere Paralogisme, which I will clear by some instances. The Tutor is elected for the preservation of his Pupill, yet the Pupill *qua talis* is lesse honourable: The Angells are Ministring Spirits for the good of Man-kinde, are men therefore more honourable then Angells? The Redemption of the World is the end of Christs Incarnation, is the World therefore more excellent then Christ?

Whether the Observer cite *Machiavell* true or false, I neither know nor regard? Such a Character might fit *Cæsar Borgias* a new Intruder, but not King *Charles*, who derives his Royalty from above an hundred Kingly Predecessors, whom Malice itselfe

cannot charge with one drop of guiltleſſe Blood, nor with the teare of an innocent, ſuch a Prince as *Veſpaſian*, of whom it is ſaid, that *juſtis ſuppliciis illacrimavit & ingemuit*. But I offer two iſſues to the Obſerver, out of theſe words of *Machiavell*, if he pleaſe to accept the challenge. Firſt, that more Noble Worthies have been cruſhed to nothing by the inſolency of the People, (proportion for proportion) then by the Power of Kings. As in *Athens* for inſtance, *Socrates*, *Ariſtides*, *Themiſtocles*, *Alcibiades*, and many more. The Second, that gallant and veruous Actions doe not more often ingratiate men with the People, then a rouling tongue, a precipitate head, vain-glorious Profuſion, oily Inſinuations, feined Devotions, Sufferings (though deſerved) from Superiors, and above all oppoſition to the preſent State. So that he that is a Favorite to the King, is *ipſo facto*, hated by the People or the major Part: and to be ſleighted by the Prince, is frequently a ready way to be honoured by the
*s* 5. 37. People. *Judas* of *Galilee* was a great Favorite of the Commons, how did he indeare himſelfe? by ſeditiſ 8. 10. ous Orations. Who more popular then *Simon Magus*? *Tis megas* ſome great one, and this onely with
*Sam.* 15. jugling. When *Abſolom* ſought to ingratiate himſelfe with the vulgar, what courſe did he take? to be more eminent in vertue? No ſuch thing: but oſtentation, lying, flattery and traducing the preſent State. Who hath not heard, how *Piſiſtratus* and *Dioniſius* two execrable Tyrants, did cut and flaſh themſelves, and perſwaded the credulous multitude, how it was done by the Malignants

Malignants for their zeal to the Commonwealth, till by these Arts they had first gotten a guard allowed for themselves, and after invaded the Government.

Observer.

*To be* deliciæ humani generis *is grown sordid with Princes, to be publicke torments and Carnificines, and to plot against those Subjects, whom by nature they ought to protect, is held* Cæsar-*like, and therefore bloody* Borgias *by meere treachery and cruelty hath gotten room in the Calender of witty and of spirited* Heroes. *And our English Court of late yeares hath drunke too much of this State poyson, for either we have seen Favorites raised to pull the People, and razed again to pacifie the People; or else (which is worse for King and People too) we have seen engines of Mischiefe preserved against the People, and upheld against Law, merely that mischief might not want encouragement.*

*Answer.*

*Curse not the King* (saith the Wise-man) *no not in thy thought. Thou shalt not revile the Gods, nor speak evill of the Ruler of thy People.* Two Apostles bear record that there cannot be a surer note of a Schismatick, then *to despise Dominion, and speak evill of Dignities.* Evill language against a Soveraign Prince, hath ever been reputed an Injury to all his Subjects: but this age hath hatched such Vipers, which dare not only like some *Rabshakeh*, raile against some forrein Prince, but cast durt in the face of their naturall Lord;

*Sect. 7. Eccl. 10 Exo. 22 & Act 5. 2. Pet. 2 & Jud*

as if they were the *colts of a wild Asse in the wildernesse*, subject to no man, accountable to no Man: and that not onely in thought, which *Solomon* disliked, or in a word, which God did forbid, but even to make the Presse grone under dayly bundles of Lies and slanders and fictitious Fables. I say the Presse, which hath been ever esteemed a peculiar Priveledge of Supreme Majesty, Nay, one King is not an object worthy of their wrath, but as it is said of *Julian*, that he sought to destroy both *Presbyteros* and *Presbyterium*, not Priests onely, but Priest-hood it selfe: So it is not one or two Monarchs, but the destruction of Monarchy it self which these Men aime at; witnesse our Observer here, *to be publick torments and Carnificines, is held* Cæsar-*like with Princes*, and one of his Friends lately, *He errs not much who saith, that there is an inbred hatred of the Gospell in all Kings, they doe not willingly suffer the King of Kings to rule in their Kingdomes, the Lord hath his among Kings, but very few, one perhaps of an hundred. Increpet te Deus Satan.* The Lord himselfe will one day call them to an account for these Blasphemies against his anoynted. Is this a Coale taken from the Altar, or rather from the fire of Hell? There is hope our Countrymen will robbe the Jesuits shortly of their reputation: Anabaptisme hath got it loose to be the Liers and the Rebells Catechisme. Sir, lay aside your eye of envy, which cannot endure the beams of Majesty, and tell us what it is in King *Charles* which doth so much offend you? take *Diogenes* his lanthorn, and look at Noone-Day among all his Opposers throughout your Classes and Forms, if you can find one to match or parallell him, for piety towards God,

Ideæ
adelphi

justice

justice towards Man, Temperance in His Diet, truth in His Word, Chastity in His Life, Mercy towards the oppressed; yea take your multiplying glasse and looke through His Government from end to end, if you can find His Crown sprinkled with one drop of innocent blood. He needs not with *Caius* the Emperour assume *Mercuries* Rod, *Apolloes* bowe and arrows, *Mars* his sword and shield, to make himself resemble God, He hath better ensignes of the Diety: Unhappy we onely because we do not know our own good, that might enjoy a temperate and sweet Government, Sun-shine dayes under our own Vines and Fig-trees, the free Profession of true Religion, equall administration of Justice, Peace and Plenty, with a dayly growth of all arts that may enrich or civilize a Nation, under the radicated succession of a Princely Family. If the Observers eyes had not been like the old *Lamies*, to take out and put in at his pleasure, he might have seen a *Titus* at Home, a Darling of Mankind.

But what is the ground of all this great cry? forsooth we have had Favorites. I doe not yet know any hurt in a good Favorite, such an one as *Joshua* was to *Moses*, or *Daniell* to *Darius*, or *Mæcenas* and *Agrippa* to *Augustus*, or *Craterus* and (for any thing I know) *Ephestion also to Alexander*. Wise men think a well-chosen Favorite may bring great advantage both to King and People. But I leave the discourse: it is well known, His Majesty is as opposite to Favourites as the Observer, and never raised any to that height, but they might be opposed and questioned by their Fellow-Councellers. But if the Observer have

a mind

a mind to see some of those Favourites, (whom he calls Pollers, engines of Mischiefe, or Monopolists) he may find them moving in another Sphere; To side with His Majesty is no ready way to impunity.

Observer.

*But our King here doth acknowledge it a great busi-nesse of His Coronation Oath to protect us: and I hope under this word protect, he intends not onely to shield us from all kind of evill, but to promote us to all kind of Politicall happinesse, according to his utmost Devoir: and I hope he holds himselfe bound thereunto, not onely by his Oath, but also by his very Office and by the end of his Sove-raigne Dignity. And though all single Persons ought to looke upon the late bills passed by the King, as mat-ters of Grace with all Thankfulnesse and Humility: yet the King himselfe looking upon the whole State, ought to acknowledge, that he cannot merit of it, and that whatsoever he hath granted, if it be for the prosperity of his Peo-ple, (but much-more for their ease) it hath proceeded but from meere duty. If Ship-money, if Star-Chamber, if the High Commission, if the Votes of Bishops and Popish Lords in the upper House be inconsistent with the well-fare of the Kingdom, not onely Honour, but Justice it-selfe challenges that they be abolish't. The King ought not to account that a Profit or Strength to him, which is a losse or wasting to the People, nor ought he to think that perish't to him, which is gained to the People: The word Grace sounds better in the Peoples mouth then in His.*

Answer

*Answer.*

His Majesty is bound in Conscience both by his Oath and Office, not onely to protect his People committed to his charge in Wealth, Peace and Godlinesse, but also to promote their Good: But this Protection must be according to Law, this Promotion according to Law. Now if a good King at seasonable and opportune times, (so it may not be like the borrowing of a shaft for the Hatchet to cut down the great Oake, nor like the plucking off one or more feathers out of the Eagles wings, wherewith to feather an arrow to pierce through that King of Birds,) shall freely according to the dictates of his own Reason, part with any of those Jewells which do adorn his Royall Diadem, for the behoofe of his Subjects, it is an act of Grace, not onely to individuall Persons, but to the collected Body of his People, & so both Houses have acknowledged it: yet you say it is *meere duty*, that both Honour and Justice do challenge it from him. It is a strange and unheard of piece of Justice and Duty, which is without and beyond all Law. You say the word Grace sounds better in the Peoples mouth then in His, O Partiallity how dost thou blind mens eyes! The Observer sees that Grace sounds ill in the Kings mouth, and yet he doth not or will not see how ill duty and *meere duty* sounds in his own mouth, being a Subject towards his Soveraigne. The truth is, it is most civill for Receivers to relate benefits, *sufficit unus huic operi, si vis me loqui, ipse tace*: But where the Receivers forget themselves, yea deny the favours

Sect. 8.

received

received (as this Obſerver doth) it is very comely for the Beſtowers to ſupply their defect.

Next, to your taking away of Ship-Money, Star-chamber, High Commiſſion, &c. It is an eaſy thing to take away, but difficult to build up, both in nature and in reſpect of mens minds, which commonly agree ſooner in the deſtructive part then in the conſtructive. All the danger is either in exceeding the golden mean (by falling from one extreme to another) or in taking that away, which by correcting and good ordering skill, might have been of great uſe to the Body Politick. We are glad to be eaſed of our former Burthens, yet we wiſh with all our hearts, that our preſent eaſe may not produce greater miſchiefes, that in true reall neceſſities and ſuddaine dangerous Exigences, the Common-wealth may not be left without a ſpeedy Remedy. That if the Laws have not ſufficiently provided for the ſuppreſſing of riots and tumultuous diſorders in great men? yet the ordinary Subject may not be left without a Sanctuary whither to fly from oppreſſion. That in this inundation of Sects, which doe extremely deforme our Church, and diſturbe the Common-wealth, there may be a proper and ſure Remedy provided before it be too late, and we be forced in vaine to digge up *Antigonus* again out of his Grave. As for the taking away of Biſhops Votes at this time, I doe not doubt but that great Councell of the Kingdom had reaſons for it, and may have other Reaſons (when it pleaſeth God) to reſtore them again: There is much difference betwixt a coercive and a Conſultive Power: No Nation yet that ever I read of, did exclude their Religious from their Conſultati-

ons

ons: To make a Law perfectly good, Piety must concurre, and who shall judge what is pious? shall they first be excluded from all other Professions, and then from their owne? Brittish Bishop have been of note in great Councells forreine and Domestique these one thousand four hundred and thirty years. It is your own Rule, *quod omnes tangit ab omnibus tractari debet:* All other Professions in the Kingdome are capable both of electing and being elected; but for this I doe submit, and leave it to time to discover what is good for the Kingdome.

## Observer.

*This directs us then to the transcendent* achme *of all Politicks, to the* Paramount *Law, which shall give Law to all Humane Laws whatsoever, and that is* salus Populi. *The Law of Prerogative it selfe is subservient to this Law, and were it not conducing thereunto, it were not necessary nor expedient.*

## *Answer.*

If this Author could commit the Law of Prerogative, and this Supreme Law of *salus Populi* together, as opposite one to another, he had said something; but he cannot see Wood for Trees: the same transcendent *achme* which he magnifies, is the Law of Prerogative it selfe: because a generall Law cannot take notice of the equity of all particular circumstances, nor of the necessity of all particular Occurrences; therefore the supreme Prince is trusted with this *Sect. 9.*

Power *Paramount*. That which the Law of Nature warrants in a private Man, as in a ſcathfire, to pull down a Neighbours Houſe to prevent the burning of a Citty; to caſt another mans corne overboord in a Tempeſt; to defend himſelfe from Thiefes, in caſes where he cannot have recourſe to the Magiſtrate, or the ſuddaineſſe of the Danger will admit no formall Proceeding in Law: So publicke neceſſity doth juſtifie the like Actions in a King, where the exigence of the State is apparant. If this Power be at any time miſimployed, if this Truſt be violated; yet the abuſe of a thing cannot take away the uſe and lawfull and neceſſary right, which is grounded upon the univerſall and perpetuall Law of *ſalus Populi*, which comprehends the good of the Soveraigne, as well as of the Subject. But it is now grown into faſhion for Subjects without Authority, Equity, or Neceſſity, to urge this Law upon all occaſions. *Salus Populi* is like the Foxe in *Æſops* Fables, it is in at every end: Mens Perſons are impriſoned, their Houſes plundered, there Lands ſequeſtred, their Rights violated without the Judgement of their Peeres, contrary to the known Law, contrary to the great Charter; and nothing pretended for this, but the Law *Paramount*. Truely Sir, if this be *ſalus Populi*, *una ſalus ſanis nullam ſperare ſalutem*. A remote Jealouſie or Suppoſition is no good ground for the exerciſe of this Law; as to pull down another Mans Houſe, for fear of a Scathfire to come, God knows how or when, perhaps foretold in a Prognoſtication. The Dangers muſt be very viſible, before this Rule take place; not taken upon Truſt or an implicit Faith, like *Scoggins* fiery

Draggon

Draggons in the aire. All true Englishmen will desire to be governed by their known Laws, and not to hear too often of this *Paramount* Law, the application or misapplication whereof, hath been the cause of the past and present Distempers of this Kingdom. *Extraordinary Remedyes like hot waters, may helpe at a Pang, but being too often used, spoyle the Stomack.* Sir H.

## Observer.

*Neither can the Right of Conquest be pleaded to acquit Princes of that which is due to the People, as the Authours and ends of all Power, for meere Force cannot alter the course of Nature, or frustrate the tenour of the Law, and if it could, there were more reason why the People might justifie force, to regaine due Liberty, then the Prince might to subvert the same. And it is a shamefull Stupidity in any Man, to think that our Ancestors did not fight more nobly for their free Customes, and Laws, of which the Conquerer and his Successors had in part disinherited them by violence and perjury, then they which put them to such conflicts; for it seems unnaturall to me, that any Nation should be bound to contribute its own inherent puissance, meerely to abet Tyranny, and support Slavery: and to make that which is more excellent; a prey to that which is of lesse worth. And questionlesse a native Prince if meere force be right, may disfranchise His Subject as well as a Stranger, if he can frame a sufficient party, and yet we see that this was the foolish Sinne of* Rehoboam, *who having deserted and rejected out of an intollerable Insolence*

*lence the Strength of ten Tribes, ridiculouſly ſought to reduce them againe with the Strength of two.*

*Anſwer.*

*Sect.* 10. This Author intends not to halt on one ſide onely in this Diſcourſe, *qui ſemel verecundiæ limites tranſiverit, guaviter impudentem eſſe oportet.* Firſt, That juſt Conqueſt in a lawfull Warr, acquireth good right of Dominion, as well as Poſſeſſion, is ſo conſonant to the univerſall Opinion and Practiſe of all Nations, yea, to the infallible and undoubted Teſtimony of holy Scriptures, that he that denyes it, may as well affirme, *Nil intra eſt oleam, nil extra eſt in nuce durum.* Force is not meere Force, where Juſtice goes hand in hand with it, *Omnia dat qui juſta negat.* Neither is this to *alter the courſe of Nature, or fruſtrate the tenour of Law*, but it ſelfe is the Law of Nature and of Nations,

Secondly, That Subjects who have not the power of the Sword committed to them, after a long time of Obedience and lawfull Succeſſion, after Oaths of Allegiance, may uſe force to recover their former Liberty, or raiſe Arms to change the Laws eſtabliſhed, is without all contradiction both falſe and Rebellious. *They that are overcome* (ſaith *Joſephus* moſt truely) *and have long obeyed, if they ſeek to ſhake off the yoke, they doe the part of deſperate Men not of Lovers of Liberty.* Surely, if any Liberty might warrant ſuch Force, it is the Liberty of Religion, but Chriſt never planted his Religion in blood: He cooled his Diſciples heat with a ſharpe Redargu-

tion

ion, *yee know not of what spirit yee are of.* It is better to dye innocent then live nocent, as the *Thebean* Legion, (all Christans of approved valour) answered the bloody Emperour *Maximian*, Cognosce Imperator, *know O Emperour that we are all Christians, we submit our Bodies to thy Power, but our free Soules fly to our Saviour, neither our known Courage nor Desperation it selfe hath armed us against thee, because we had rather dye innocent, then live guilty; thou shalt find our Hands empty of Weapons, but our Brests armed with the Catholick Faith.* So having power to resist, yet they suffered themselves to be cut all in pieces. The Observer is still harping upon Tyranny and slavery, to little purpose; he is not presently a Tyrant, who hath more Power then Nature did commit to him, nor he a Slave who hath subjected himselfe to the Dominion of another. That which is done to gain Protection or Sustaynce, or to avoide the evills of Sedition, or to performe a lawfull Ingagement, is not meerely done to abet Tyranny and support Slavery. Luke 9. 5

Thirdly, to the Observers instance of our Ancestours in the Barons Warrs, I know not whether Warrs he intends, the former or the latter, or both: This is certain, no party gained by them. They proved fatall and destructive sometimes to the King, sometimes to the Barons, sometimes to both, and evermore to the People. And howsoever the name of free Customs and Laws was made use of as a plausible pretence, yet it is evident, that Envy, Revenge, Coveteousnesse, Ambition, Lust, Jealousie, did all act their severall parts in them. And if there were any

(as

(as I doubt not there were many) who did ſolely and ſincerely aime at the publicke good, yet it cannot be denyed there was too much ſtiffeneſſe, and animoſity on both ſides; a little yielding and bending is better then breaking outright, and more eſpecially Conſcience requires it of them who are Subjects, and of them who contend for an alteration. *Pliny* relates a Story of two Goats that met in the midſt of a narrow planke, over a ſwift current, there was no room for one to paſſe by another, neither could turn backward, they could not fight it out for the way, but with certain perill of drowning them both; that which onely remained, was, that the one couching on the planke made a Bridge for the other to goe over, and ſo both were ſaved. But the Subject is ſo direfull and tragicall, and the remembrance of thoſe times ſo odious to all good Men, that I paſſe by it, as not much materiall to the Queſtion in hand: Both Parties are dead and have made their accounts to God, and know long ſince whether they did well or ill: neither can their example either juſtifie or condemne our actions. It is probable there were ſome *Shebahs*, Trumpetters of Sedition in thoſe dayes, as this Author proves himſelfe now: yet none ſo apt as theſe *Catalines* to cry out againſt Incendiaryes. It is a good wiſh of *Saravia*h, that ſuch ſeditious Authors might ever be placed in the front of the battle. Yet thus farre the Authors ingenuity doth lead him, to diſtinguiſh the Barons then, from His Majeſties Oppoſites now. The Barons then fought for their Laws, not to change the Laws and alter the Government both in Church and Common-wealth, which was the very caſe of the

the *Lincolnshire*, *Yorkeshire*, and Northren Rebells in the Dayes of *Henry* the eight, and Queene *Elizabeth*. I wish none of His Majesties Subjects were involved in it at this present.

Fourthly, whereas he urgeth that a native Prince may disfranchise His Subjects by Force, if He can make a Party, as well as Strangers: either he intends that he may doe it *de facto*, that is true; so may a Thiefe take away an honest mans purse: or else that he may doe it *de jure*, lawfully and conscionably; that is most untrue: There is a vast difference betwixt a just Warre and an unjust Oppression. His instance of *Reboboam* is quite beside the Cushion, his error was threatning and indiscretion, the fault they found was with *Solomon*, *thy Father hath made our yoke grievous*: And yet it is most certain, they never had so gracious so happy a Reigne as *Solomons* was for Peace & Plenty, who made Silver as plentifull as stones, and Cedars as Sicamores in *Jerusalem*. So unthankfull we are naturally, so soone troubled with trivial matters as *Haman* was, and like flyes feed upon sores, leaving the whole Body which is sound. This is sure, that against *Reboboam*, was a meditated Rebellion, witnesse the place chosen *Shechem*, in the midst of the Faction; witnesse their Prolocutor *Jeroboam*, a seditious Fugitive, and ungratefull Servant of *Solomons*, by whom he had been preferred; they sent for him out of *Ægipt*. And howsoever the Author makes *Rehoboams* attempt ridiculous, yet it proved not so shortly after, His Sonne *Abijah* discomfited *Jeroboam*, and slew of his Souldiers five hundred thousand men; the greatest number that we have read of slaine at once:

1. *King.* 27.

1 *King.* 3.

2. *Chr.* 13. 17

once; yet had *Jeroboam* all the advantages in the World of numbers, Stratagems, and every thing except the justice of the Cause. And that which is more for our learning, the House of *Judah* had many pious and virtuous Kings after this Revolt, but the House of *Israel* not one but Tyrants and Idolaters.

Observer.

*I come now from the cause which conveyes Royalty, and that for which it is conveyed, to the nature of the conveyance. The word trust is frequent in the Kings papers, and therefore I conceive the King does admit that His Interest in the Crown is not absolute, or by a meere Donation of the People, but in part conditionate and fiduciary. And indeed all good Princes, without any expresse contract betwixt them and their Subjects, have acknowledged, that there did lye a great and high trust upon them; nay Heathen Princes that have been absolute, have acknowledged themselves Servants to the publick, and born for that service, and professed that they would manage the publick Weale, as being well satisfied* populi rem esse non suam: *And we cannot immagine in the fury of Warr (when Laws have the least vigour) that any* General *if he can be so uncircumscribed in Power, but that if he should turn his Cannons on his own Souldiers, they were ipso facto absolved of all Obedience, and of all Oaths, and tyes of Allegiance whatsoever for that time, and bound by a higher Duty to seek their own preservation by Resistence and Defence: wherefore if there be such tacite trusts, and reservations in all publicke Commands, though of most absolute nature that can be supposed, we*

cannot

*cannot but admit, that in all well formed Monarchies, where Kingly Prerogative has any Limits set, this must needes be one necessary condition, that the Subject may live safe and free. The Charter of Nature intitles all Subjects of all Countryes whatsoever to safety by its supreme Law.*

*Answer.*

The Observer needs not bring any confessions of Princes, Christian or Heathen, to prove that good Kings account themselves great, though glorious servants to their Subjects, like a Candle burning away itselfe to give light to others; which a Germane Prince stamped on His Coyne with this inscription *aliis serviens meipsum contero*: Whilest other men slept *Ahasuerosh* waked, and thoughts troubled *Nebuchadnezars* Head. They have many Causes of care, which private Persons want, *& patet in curas area lata suas*: Queen *Mary* said, they would find *Callice* written in her heart. He is very incredulous who will not believe readily, that these Distractions have pierced deeper into the brest of King *Charles*, then of this Observer; and this because he knows *& populi rem esse & suam*: Yet further, His Majesty will acknowledge a trust from His People, a subsequent and implicit consent imp'yes a trust but not a guift: But the inference which this good Man (I can neither call him good Subject nor good Logician) makes from hence, that the King hereby *admits that His Interest in the Crowne is not absolute* but a meere Donation, yea a conditionall donation from the People, is such *Sect.* 12



a pretty

a pretty treasonable (I should say topicall) Argument, drawn just from *Tenterden* Steeple to *Goodwin* Sands, confounding Gods trust with mans trust, and in mans trust a trust of donation with a trust of dependence, a trust recoverable with a trust irrecoverable, a trust absolute with a trust conditionall, a trust antecedent with a trust consequent: I hope the Author trusts in God, will he therefore make God his Donee, yea his conditionate Donee? In plaine termes, Sir, your collection is foundred of all four, and will not passe current in *Smithfield*, and may well take your *Generalissimo* by the hand: But good Sir, without offence may I aske you, what Countryman your *Generalissimo* was? For no man that I meet with, will believe that there ever was such a Creature in the World: But certainly if there was, he was starke mad. Now Sir in the first place, he that shall goe about to shake in pieces an healthfull and beneficiall Institution, for fear of such a Danger, as was never yet produced into act, since the Creation of the World; deserves the next Roome in *Bedlam* to your *Generalissimo*. These groundlesse panicall Feares, these ifs and suppositions of incredible Dangers, have been the Raisers and Fomenters of these present Distractions: *Dic mihi si fias tu leo qualis eris*? If the Sky should fall, what price will Larkes beare? Secondly, it is a piece both of incivillity and knavery, for a Servant first to withdraw his Obedience from His Master unduti fully, and then to plead sawcily that some Masters have been mad. Thirdly, hath a *Generalissimo* as large an extent of Power in all respects, as unlimited for time as a Sovetaigne King? When a *Ge-*

*neralissimo*

*neralissimo* runnes into such a frantick Error, it is fit he should lose his place: but when an Hereditary King falls into it, it is just he should have a *Prorex* named, a Deputy or Protector (which you will) during his Distraction, alwayes saving the right both to himselfe and his Posterity. I have read such rebellious suppositions as this in late Pamphlets, as of a Pilot seeking to split his Ship upon the rocks; of a Patient calling to his Phisitian for poison; but never read one of them urged in a Classicke Author. Put the case a man is to saile by Sea, the Pilot may runn mad, and seeke to split the Ship upon rocks; shall we therefore make an Ordinance, that it shall not be lawfull for a Pilot to move his rudder according to the alterable face of Heaven, or different disposition of Wind and Weather, before he have consulted and gained the consent of all the Passengers, or at the least of every inferiour Marriner, or of the Major part of them? *Interea perit Naufragus*, before this can be done the Ship may be cast away: howsoever it leaves small hope of a prosperous Voyage. If you will prescribe Limits and Bounds and Conditions to Kings, you must find them written in plainer Characters then any you produce hitherto. The Charter of Nature, *Lex nata non data*, is indeed to preserve our selves, as Water contracts it selfe into a Globe or Circle in a dusty place; an Embleme of Association, which cannot be without Nerves, Bonds, Ligaments, Laws, and Kings. What is this against the Magistrate, who is the Minister of God for our preservation and safety? The Subject never finds more safety or more Liberty, then under a gracious King,

*neque unquam Libertas gratior aut tutior extat quam sub Rege pio.*

But because the Observer doth so often presse the Charter of Nature, even to the dissolving of *all Oaths and Ties of Allegiance* and all mutuall Compacts and Agreements: as also to animate Subjects to raise Arms against their Soveraignes, as a thing that is not onely lawfull but necessary, to which they are bound *by a higher duty*, unlesse they will be *fellonious to themselves and rebellions to Nature*: That it is not *just nor possible* for any Nation so far to enslave themselves, & that there are *tacite trusts & reservations in all publicke Commands*. To give him an answer once for all in this point of Resistence. First, I affirme though it be nothing to us, (who are free Subjects and might well have been omitted by him, as making nought to his purpose) that even by the Laws of Nature, of Nations, and of God, one Man, or a Society of Men might enslave themselves to another for sustenance or protection. All Histories both sacred and profaine are full of Examples, and the Law of God is plaine *Exod.* 21. 6. *Levit*, 25. 47. &c. And it seems strange, that the Observer should so farr over-reach or beat the aire to no end at all: this confessed truth quite overthrowes his whole structure of tacite trusts and conditions and rebellions against Nature.

Secondly, to come nearer our own case, I answer, that though the Law of Nature cannot be destroyed or contradicted, yet it may be limited by the positive Laws of the Land. And so it is; the Observer will not deny it in his own case, though he mete with another measure to his Soveraigne. The

Charter

Charter of Nature intitles man-kind indefinitely to the whole Earth, will the Obſerver therefore give his Neighbour leave to enter as a Coparcener into his Freehold? I beleive, not; but would tell him readily there is a new Charter made by which he holds it; that is, the Law of the Land. It is uſuall with theſe Men to diveſt Men of all due relations, as if it were the ſame to be a Subject and a Man. A Man *quâ talis*, might doe many things, which in a Subject is flat Treaſon, notwithſtanding the Charter of Nature.

Thirdly, beyond and above both theſe, there is the Law of God, there is the laſt Will and Teſtament of our Saviour, by which we hold our hopes of happineſſe: which to Chriſtians muſt be as the Pillar of Fire to the *Iſraelites*, a direction when to go, where to ſtay. Here we read of Tyrants, and of the ſufferings of the Saints, but not a word of any tacite truſts and reſervations, or of any ſuch rebellion againſt Nature, or diſpenſation with Oaths, nor of any reſiſtence by Arms. Certainly there is no one duty more preſſed upon Chriſtians by Chriſt and his Apoſtles then Obedience to Superiours. *Give unto Cæſar that which is Cæſars*, ſaith our Saviour. *Submit your ſelves to every Ordinance of Man, for the Lords ſake*, ſaith Saint *Peter*. *Put them in mind to be ſubject to Principallities and Powers*, ſaith Saint *Paul*: and in that well known place to the *Romans*, *Let every Soul be ſubject to the Higher Powers, whoſoever reſiſteth the Powers, reſiſteth the Ordinance of God, and they that reſiſt ſhall receive to themſelves Damnation.* To this evidence of Holy Scripture for want of one good anſwer, the Obſerver

hath

hath devised three bad ones, *ut quæ non videant singuli multa juvent*, the clearing of which will helpe to put an end to the Controversy.

*Observ. defended pag. 7.* First, they say, *The Apostle tells us not which Power is highest, but that that Power which is the highest ought to be obeyed.* A strange Evasion, the Apostle elsewhere names these two together, *Principalities and Powers*: yea in this very Text he expresseth himselfe, that by the higher Powers, he understands the Magistrate *vers.* 3. *him that beareth the Sword*, vers. 4. *him towhom tribute is payed* verse 7. none of all these will agree either to the People or to the Senate, but to the supreme Magistrate onely, which Saint *Peter* tells us, is the King, *whether it be to the King as Supreme.* *1 Pet. 2.13.*

*Obs. defended. pag. 8.* A second Evasion is this, *Saint Paul speakes to a few particular dispersed Men, and those in a primitive condition, who had no meanes to provide for their own preservation.* It skills not whether he borrowed this from the Jesuits *defuerunt vires*, they wanted strength; or of *Buchanan*, Finge aliquem è nostris Doctoribus, *Imagine one of our Doctors did write to the Christians which live under the Turke, to pacify faint-hearted and unarmed Men, what other Counsaile could he give, then Saint Paul did to the Romans.* *Bucha.*

Thus they transforme a Precept into a Counsaile; I had thought they had allowed no Evangelicall or Apostolicall Counsails: and what the Apostle enjoynes to be done for Conscience sake *verse* 5. under paine of Damnation *verse* 2. they say is to be done for discretion sake, under pain of plundering. Doe not these Men deserve well of Christian Religion to

infuse

infuse such prejudicate conceits into the breſts of Monarchs? that Christians are like the frozen snake, which if they take into their bosome, so soone as she is warmed and inlived, they shall be sure to feele her sting for their favours. Let Christians be guiltlesse, and let the Mischief fall upon the heads of the seditious Contrivers. That it was not weaknesse or want of Courage, but strength of Faith that kept the Primitive Christians quiet under the persecutions of the Heathen Emperours, *Tertullian* and the Ancients doe abundantly witnesse, and it hath been sufficiently cleared by our Divines against the Jesuits. This is S. Saint *Jude* saith, to have *mens persons in admiration, because of advantage.* *vers. 16.*

The third answer whereupon they doe most insist, is that this subjection is due *to the Authority of the King*, not to the *Person of the King*, that this Authority resideth *in his Courts and in his Laws*, that the Power which Saint *Paul* treateth of, is in truth *the Kingly Office*, that to levie Force or to raise Arms *against the Personall commands of a King, accompanied with his presence, is not levying Warr against the King*: but Warr against his Authority, residing in his Courts, is warr against the King. Yet let me give the Observer his due, he is more favourable to Princes then many of his Fellowes in this, that he would have the Person of his Prince inviolable. And good reason, for what can the poor Kingdome expect, where the Person of the Prince is not held sacred? but Combustion and confusion: witnesse our owne Civill Warres; witnesse the Histories of the Gothish Kings, and the Romane Emperours from

from *Julius Cæsar* to *Constantine* the great, b
ing five and forty, whereof thirty perished by u
timely deaths, diverse of them good Princes: and a
that while the Common-wealth sympathized in th
common Calamity. No offence can be so great
that it deserves to be punished by parricide. B
this is a greater Courtesy in shew then in deed: if a
2 King 22. 34. arrow shot at adventure, did wound the King of *Is*
*rael* mortally between the joynts of his harnesse, wh
shall secure King *Charles* from a bullet? so all thi
moderation ends in this, to give the King war
ning to avoide the field, or otherwise to take what fall
at his perill. But that I may not denye truth to an Ad
versary, I grant three truths in this Answer.

First, that the Person and Office of a King ar
distinguishable: a good man may be a bad King, an
a bad man a good King. *Alexander* the great ha
his two friends *Ephestion* and *Craterus*; the one wa
*Alexanders* Friend, the other was the Kings Friend
the one honoured his person, the other his Office
But yet he that loved *Alexander* did not hate th
King, and he that loved the King, was no enemy t
*Alexander*.

Secondly, I grant in active Obedience, if th
King command any thing which is repugnant to th
Law of God or Nature, we ought rather *to obe*
*Act.5.29.* *God then Men.* The Guard of *Saul* refused justly
*1 Sam.22.17* to slay the Priests of the Lord; and *Hananiah*
*Mishael* and *Azariah* to worship *Nebuchadnezzar*
golden Image; it is better to dye then to doe tha
which is worse then Death: *Da veniam Imperato*
*Austin.* pardon me, O Soveraigne, thou threatnest me wit
prison

priſon, but God with Hell. In this caſe it is not lawfull to yeeld active obedience to the King. Again if the King command any thing which is contrary to the known Laws of the Land, if it be by an injury to a third Perſon, we may not doe it: as for a Judge to deliver an unjuſt ſentence, for every Judge ought to take an Oath at his admiſſion, that he will doe right to every perſon, *notwithſtanding the Kings letters or any other perſons*; there is danger from others as well as from the King: And generally we owe ſervice to the King, but innocency to Chriſt. But if this command intrench onely upon our own private Intereſt, we may either forbear active Obedience, or in diſcretion remit of our own right, for avoiding further evill: So ſaid Saint *Ambroſe*, *If the Emperour demand our fields, let him take them if he pleaſe, I doe not give them, but withall I doe not deny them.* Provided alwayes, that this is to be underſtood in plain caſes onely, where the Law of God, of Nature, or the Land is evident to every mans capacity: otherwiſe if it be doubtfull, it is a Rule in Caſe Divinity, *Subditi tenentur in favorem Regis & Legis judicare: It is better to obey God then Man*, but to diſobey the King upon Surmiſes, or probable pretence, or an implicit dependence upon other Mens judgements, is to diſobey both God and Man: and this duty (as the Proteſters ſay truely) is not tyed *to a Kings Chriſtianity, but his Crown. Tiberius* was no Saint when Chriſt bid give unto *Cæſar* that which was *Cæſars*. Thus for active obedience, now for paſſive. If a Soveraigne ſhall perſecute his Subjects, for not doing his unjuſt Commands; yet it is not lawfull to reſiſt

*Anno* 18. *Ed.* 3. *Stat.*

by raiſing Arms againſt him: *They that reſiſt ſhall receive to themſelves damnation.* But they aske, is there no limitation? I anſwer, *ubi lex non diſtinguit nec nos diſtinguere debemus*, how ſhall we limit where God hath not limited, or diſtinguiſh where he hath not diſtinguiſhed? But is there no remedy for a Chriſtian in this caſe? yes, three remedies.

The firſt is to ceaſe from ſinne, *Rex bonus eſt dextra, malus ſiniſtra Dei*, a good King is Gods right hand, a bad his left hand, a ſcourge for our ſinnes: as we ſuffer with patience an unfruitfull yeare, ſo we muſt doe an evill Prince as ſent by God. *Tollatur culpa ut ceſſet Tyrannorum plaga*, (ſaid *Aquinas*,) remove our ſinnes and God will take away his rod.

*Sam.*7.18. The ſecond remedy is prayers and tears, *In that day you ſhall cry unto the Lord becauſe of your King.* Saint *Nazianzen* lived under five perſecutions and never knew other Remedy: he aſcribed the death of *Julian* to the prayers and teares of the Chriſtians. *Jeremy* armed the *Jews* with prayers for *Nebuchadnezzar*, not with daggs and daggers againſt *Nebuchadnezar*. Saint Paul commands to make prayers and ſupplications for Kings, not to give poiſon to them. Saint *Peter* could have taken vengeance with a word as well on *Herod* as *Ananias*, but that he knew that God reſerves Kings for his own Tribunall. For this cauſe Saint *Ambroſe* a Man of known courage, refuſed to make uſe of the forwardneſſe of the People againſt *Valentinian* the Emperour. And when *Saul* had ſlayne the Prieſts of God and perſecuted *David*, yet ſaith *David*, *who can ſtretch forth his hand againſt*

*Sam.*26.9. *the Lords anointed and be guiltleſſe?* It was Duty

and

and not a singular desire of perfection that held *Davids* hands; who can stretch out his Hand? No Man can doe it.

The third remedy is flight, this is the uttermost which our Maister hath allowed, *when they persecute you in one City fly to another.* Mat. 10. But a whole Kingdome cannot fly; neither was a whole Kingdome ever persecuted by a lawfull Prince: private men tasted of *Domitians* cruelty, but the Provinces were well governed: The raging desires of one Man cannot possibly extend to the ruine of all. Nor is this condition so hard for Subjects, *This is thankworthy if a man for Conscience towards God indure grief,* 1 Pet. 2. and *if a man suffer as a Christian let him glorifie God on this behalfe.* 1 Pet. 4. This way hath ever proved successefull to Christian Religion: the blood of the Martyrs is the seed of the Church; *cædebantur, torquebantur, urebantur, & tamen multiplicabantur.*

But all these Remedies are not sufficient, they are nothing, and they that thinke otherwise are stupid fellowes in the judgement of the Observer; unlesse the People have right to preserve themselves *by force of Arms, yea notwithstanding any contracts that they have made to the contrary; for every private man may defend himselfe by force if assaulted, though by the force of a Magistrate, or his own Father, &c.* Pag. 17. First I observe how the Observer enterferes in his Discourse, for in the forty fourth page he telleth us quite contrary, that *the King as to his own Person is not forcibly to be repelled in any ill doing.* But passing by this contradiction, I aske two questions of him, by his good leave, The first is, if a Father should goe about onely to

correct his Child and not to kill him or maime him, whether he might in such a case cry Murther Murther, and trie Misteries with his Father, and allege his own judgement against his Fathers to prove his innocency? My second question is, if an inraged Father should offer extreme violence to his Sonne, how far he might resist his Father in this case, whether to give blow for blow, and stabbe for stabbe, or onely to hold his Fathers hands? For if it be a meere resistence without any further active violence, (which is allowable,) if it be onely in extream perills where the life is indangered, and against manifest rage and fury; what the Observer gets by this, he may put in his eye and see never the worse. But to give his remedy and his instance for it a positive answer, I say further, that this which he calls a Remedy is ten times worse then the disease itselfe, even such a Remedy, as the luke-warm blood of Infants newly slain is for the Leprosy: and in this respect worse, that a Leprosy is a disease indeed, but where shall a Man almost read in story of a Father slaughtering his Son (except perhaps some franticke Anabaptist in imitation of *Abraham*:) it will not be difficult to find two Sons that have made away their Fathers, for one Father that hath made away his Sonne, notwithstanding the Fathers Authority. So this case is *inter raro aut nunquam contingentia*, and may be reckoned amongst the rest of the Observers incredible suppositions, which are answered before in the beginning of this Section. But if the Observers Doctrine were once received into the world throughly, for one instance of a Parracide now, we should hear of an hundred. A Mischief is better

then

then an inconvenience; a Miſchief that happens once in an Age, then an inconvenience which is apt to produce a World of Miſchiefes every day: as where the King is able to make good his Party, *res facile redeunt ad priſtinum ſtatum*; or where Forrein Princes ſhall engage themſelves, on the behalfe of Monarchy it ſelfe, or perhaps doe but watch for an opportunity to ſeiſe upon both parties, as the Kite did on the Frog and the Mouſe; and howſoever, where Ambition, Coveroufneſſe, Envy, Newfangledneſſe, Schiſme ſhal gain an opportunity to act their miſchievous intentions, under the cloake of Juſtice, and zeal to the Common-wealth. We are now God knowes in this way of Cure which the Obſerver preſcribes. I may ſay it ſafely, This Kingdom hath ſuffered more in the tryall of this remedy in one year, then it hath done under all the Kings and Queenes of *England*, ſince the union of the two roſes, I think I may inlarge it, ſince the Conqueſt (except onely ſuch ſeditious times.) Leave a right to the Multitude to riſe in Arms, as often as they may be perſwaded there is Danger, by the Obſerver or ſome ſuch ſeditious Oratours for their own ends; and every Engliſh Subject may write on his doore, *Lord have merty upon us.*

Thirdly, I doe grant, that to levy Arms againſt the authority of the King, in the abſence of his Perſon is to warre againſt the King; otherwiſe we ſhould, have few Treaſons. Some deſperate Ruffian or two or three Raggamuffins ſometimes (but rarely) out of revenge, moſt commonly upon ſeditious principles, and miſled by ſome fictious Teachers, may attempt upon the Perſon of the Prince: but all grand

conſpiracies

conſpiracies are veiled under the maske of Refor-
mation, of removing greivances and evill Counce-
lours, *Fallit enim vitium ſpecie virtutis & umbra.* I
goe yet further, that when a Kings Perſon is held
captive by force and his commands are meerely extor-
ted from him by dureſſe and fear of further Miſchief,
contrary to the dictate of his own reaſon, (as it was
in the caſe of *Henry* the ſixth) there his commands are
to be eſteemed a nullity of no moment, as a forced
marriage or a bond ſealed *per minas*. But where the
King hath Dominion of his own Actions, though he
be actually miſled, and much more though he be ſaid
to be miſled; the caſe is far otherwiſe. Theſe three
truths with theſe Cautions I doe admit in this di-
ſtinction of the Kings Perſon and Office.

But yet further here are ſundry rocks to be avoided
in it. The firſt is not onely to diſtinguiſh in reaſon
but actually and in deed to divide the Kings Perſon
from His Authority; that is, to make the King a
*Platonicall Idea* without perſonall ſubſiſtence, or as
the Familiſts doe make their Chriſt, a Quality and
not a Man: as if the King of *England* were nothing
but *Carolus Rex* written in Court hand, without
fleſh blood or bones. To what purpoſe then are thoſe
ſignificant ſolemnities uſed, at the Coronation of our
Kings? Why are they crowned? but to ſhew their
perſonall and Imperiall Power in Military Af-
faires: why inthroned? but to ſhew their judiciary
Supremacy: why inovled? but to expreſſe their Su-
premacy in matters of Religion. That the Kings
Authority may be where His Perſon is not, is moſt
true: that His perſon may be without Authority, is

moſt

most false. That his Office and Authority may be limited by Law, is true: but a King without personall Authority, is a contradiction rather then a King; such a King as the Souldiers made of Christ, with a scarlet Robe, a Crown of Thornes, a Scepter of a Reed, and a few Courtesies and Formallities. The Person of a bad King is to be honoured for his Office sake, to what purpose? if his Person and his Office may be divided: How dull were the Primitive Christian, that suffered so much, because they were not capable of this distinction. By this distinction S. *Paul* might have justified his calling *Ananias whited Wall*, without pleading that *he knew not that he was Gods High-Priest*, and have told him plainly that he reverenced his Office, but for his Person and illegall commands, he did not respect them. When *Maximian* commanded the Christian Souldiers to sacrifice to Idols, this was an unlawfull command; yet they chose rather to be cut in pieces then to resist. When the same *Maximian* and *Diocletian*, published a cruell Edict at *Nicomedia* against Christians; That their Churches should be demolished, their Scriptures burned, their Apostate Servants infranchised, (this was but a Personall Arbitrary Edict) A principall Professor tore it in pieces, and suffered death for it (even in the judgement of his Fellow Christian) deservedly.

*Mat.* 27. 2

*Acts* 23.

A second Danger is to leave too great a Latitude of Judgement unto Subjects to censure the doings of their Soveraigne, and too great a Liberty, not onely to suspend their obedience, but also to oppose his commands, till they be satisfied of the legallity thereof. A miserable a condition for Princes, as it

is

is pernicious for Subjects, and destructive to all S
cieties. A Master commands the Servant an unju
act in the opinion of the Servant; yet the Serva
must submit or be beaten: Doth not the Master him
selfe owe the same Subjection to his Prince? th
Master denyes the act is unjust; so doth the Prince
who shall be Arbiter? it were too much sawcines
for a Servant to arrogate it to himselfe; what is
then for a Subject? will a Judge give leave to an E
ecutioner to reprive the Prisoner, till he be satisfie
of the Legallity of the Judges sentence? A Supe
riour may have a just ground for his Command, whic
he is not alwayes bound to discover to his Subjects
nor is a Subject bound to sift the grounds o
his Superiours Commands. In summe a Subje
should neither be *tanquam scipio in manu*, like
staffe in a mans hand, alike apt to all motions; read
to obey his Prince, though the act to be done be evi
dently against the Law of God or Nature: nor ye
on the other side, so scrupulous as to demurre upon al
his commands, untill he understand the legallity an
expedience of each circumstance, which perhaps he i
not capable of, perhaps reason of State will not per
mit him to know it. The House of Commons hav
a close Committee, which shews their allowance o
an implicit confidence in some cases; yet are the
but Proctors for the Commonalty, whereas the Kin
is a Possessor of Soveraignty. But it is alleged, tha
*of two evills the lesse is to be chosen, it is better to disobe
Man then God*; Rather of two evills neither is to b
chosen: but it is granted that when two evills are
feared, a Man should incline to the safer part: Nor

if the Kings Command be certain, and the other danger but doubtfull or disputable: to disobey the certain command for feare of an uncertain or surmised evill, is (as Saint *Austin* saith of some Virgins, who drowned themselves for feare of being defloured,) *to fall into a certain crime for fear of an uncertain.*

A third error in this distinction is to limit the Kings Authority to his Courts. All Courts are not of the same Antiquity, but some erected long after others: as the Court of Requests: Neither are all Justices of the same nature, some were more eminent then others, that were resident with the King as his Councell in points of Law; these are now the Judges. Others did justice abroad for the ease of the Subject; as *Justices of Assise, Justices in Eire, Justices of Oier and Terminer, Justices of Peace.* The *Barons* of the *Exchequer* were anciently Peeres of the Realme, and doe still continue their name: but to exclude the King out of his Courts is worse, a strange Paradox, and against the grounds of our Laws, *The King alone and no other may and ought to doe justice, if he alone were sufficient, as he is bound by his Oath.* And again, *If our Lord the King be not sufficient himselfe to determine every cause, that his labour may be the lighter, by dividing the burden among more Persons, he ought to choose of his own Kingdome, wise Men and fearing God, and of them to make Justices.* These Justices have power by Deputation, as Delegates to the King. The Kings did use to sit personally in their Courts: We reade of *Henry* the fourth and *Henry* the fift, that they used every day for an houre after dinner to receive bills and and heare causes: *Edward* the fourth

*Bract. l. 3. cap. 9.*

*Cap. 10.*



sate

sate ordinarily in the Kings Bench : *Richard* the third (one who knew well enough what belonged to his part) did assume the Crown sitting in the same Court, saying, *He would take the Honour there where the chiefest part of his duty did lye ; to minister the Laws* : And *Henry* the eight sate personally in *Guild-Hall*. The Writs of Appearance did run *coram me vel Justiciariis meis*, before me or my Justices; Hence is the name of the Kings Bench, and the *teste* of that Court is still *teste meipso*, witnesse our selfe. If the King be not learned in the Laws, he may have learned Assistents, as the Peeres have in Parliament; A clear and rationall head is as requisite to the doing of Justice, as the profound knowledge of Law: It is a part of his Oath, *to doe, to be kept in all his judgments, Right Justice, in Mercy, and Truth*; was this intended onely by Substitutes, or by Substitutes not accountable to him for injustice? we have sworne that he is *supreme Governour in all causes, over all Persons within his Dominions*, is it all one to be a Governour, and to name Governours? *David* exhorts *be wise now therefore O yee Kings*. *Moses* requires that the *King read in the booke of the Law all the dayes of his Life*. *Quorsum perditio hæc* ? what needs all this expence of time, if all must be done by Substitutes, if he have no Authority out of his Courts, nor in his Courts but by delegation ? When *Moses* by the advise of *Jethro* deputed subordinate Governours under him; when *Jehosophat* placed Judges Citty by Citty throughout *Judah* : It was to ease themselves and the People, not to disingage and eximanite themselves of Power. It is requisite that His Majesty should be eased

eaſed of leſſer burthens, that he may be converſant *circa ardua Reipublicæ*, about great affaires of State, but ſo as not to diveſt his Perſon of his royall Authority in the leaſt matters. Where the King is, there is the Court, and where the Kings Authority is preſent in His Perſon or in his Delegates, there is his Court of Juſtice. The reaſon is plain then, why the King may not controule his Courts; becauſe they are himſelfe: yet he may command a review, and call his Juſtices to an account. How the Obſerver will apply this to a Court, where neither His Majeſty is preſent in Perſon, nor by his Delegates I doe not underſtand.

The fourth and laſt error is to tie the hands of the King abſolutely to his Laws. Firſt in matters of Grace, the King is above his Laws, he may grant eſpeciall Privileges by Charter to what Perſons, to what Corporations he pleaſeth, of his abundant Grace and meere motion; he may pardon all crimes committed againſt the Law of the Land, and all penaltyes and irregularityes impoſed by the ſame: the perpetuall Cuſtome of this Kingdome doth warrant it. All wiſe men deſire to live under ſuch a Government, where the Prince may with a good Conſcience diſpence with the rigour of the Laws. As for thoſe that are otherwiſe minded, I wiſh them no other puniſhment then this, that the pænall Laws may be executed on them ſtrictly, till they reforme their Judgements.

Secondly, In the Acts of Regall Power and Juſtice, His Majeſty may goe beſides or beyond the ordinary courſe of Law, by his Prerogative. New Laws

for the moſt part (eſpecially when the King ſtands in need of Subſidies) are an abatement of Royall Power. The Soveraignty of a juſt Conquerer, who comes in without pactions, is abſolute, and bounded onely by the Laws of God, of Nature, and of Nations; but after he hath confirmed old Laws and Cuſtomes, or by his Charter granted new Liberties and Immunities, to the collective Body of His Subjects or to any of them; he hath ſo farr remitted of his own right, and cannot in Conſcience recede from it. I ſay in Conſcience, for though humane Laws as they are humane, cannot bind the Conſcience of a Subject, and therefore *a fortiore* not of a King who is the Law-giver, yet by conſequence and virtue of the Law of God, (which ſaith *ſubmit your ſelves to every ordinance of Man for the Lords ſake*, and again *Thou ſhalt love thy neighbour as thy ſelfe*) they doe bind, or to ſpeak more properly, Gods Law doth bind the Conſcience to the Obſervation of them. This is that which Divines doe uſe to expreſſe thus; That they have power to bind the Conſcience *in ſe ſed non a ſe*, in themſelves but not from themſelves; *non ex authoritate Legiſlatoris, ſed ex æquitate Legis*, not from the authority of the Law-giver, but from the equity of the Law: many who doe not grant that to violate the Law of Man is ſinne univerſally, yet in caſe of contempt or ſcandall doe admit that it is ſinneſull. So then the Laws and Cuſtomes of the Kingdome, are Limits and bounds to His Majeſtyes Power; but there are not preciſe Laws for each particular Occurrence, And even the Laws themſelves, doe often leave a latitude and a prehemi-

*d of the rch.*

nence

ence to His Majesty, not onely for circumstances nd forms of Justice, but even in great and high Pri-leges. These we call the Prerogative Royall, as to e the fountain of Nobility, To coyne Money, To reate Magistrates, To grant Protection to his Deb-rs against their Creditours, To present to a Bene-ce in the right of his Ward being the youngest Co-arcener before the eldest, Not to be sued upon an or-inary writ, but by Petition, and very many others hich are beyond the ordinary course of Common-Law, being either branches of absolute power or Pre-ogatives left by the Laws themselves.

Thirdly, in the case of evident necessity, where the whole Commonwealth lye's at stake: for the safety of King and Kingdome, His Majesty may go against parti-cular Laws. For howsoever fancyed & pretended invi-sible dangers have thrust us into reall dangers and un-seasonable Remedyes, have produced our present Calamityes: yet this is certaine, that all humane Laws and particular proprietyes, must veile and strike top-sayle to a true publick necessity. This is confessed by the Observer himselfe every where in this Treatise, that *Salus Populi is the transcendent* Obs. defe-ded pag. *achme of all Politicks, the Law Paramount that gives Law to all humane Laws*, and *particular Laws cannot act contrary to the legislative intent to be a violation of some more soveraigne good introducible, or some extreme and generall evill avoidable, which otherwise might swal-low up both Statutes and all other Sanctions.* This preservative Power the Observer ascribes to the people, that is to say in his sense, to the Parliament *in case the King will not joyn with them.* Though we

all

all know a Parliament is not ever ready, nor can be so suddenly called as is requisite to meet with a sudden Mischief. And he thinks it strange that the King should not *allow to the Subject a right to rise in Arms for their own necessary defence, without his consent; and that he should assume or challenge such a share in the Legislative Power to himselfe, as that without his concurrence the Lords and Commons should have no right to make temporary orders for putting the Kingdom into a posture of Defence.* Strange Phrases and unheard of by English eares, that the *King should joyn with the People*, or assume *a share in the legislative Power.* Our Laws give this honour to the King, that he can joyn or be a sharer with no man. Let not the Observer trouble himselfe about this division; The King like *Solomons* true Mother challengeth the whole Child, not a divisible share, but the very Life of the Legislative Power: The Commons present and pray, The Lords advise and consent, The King enacts. It would be much for the credit of the Observers desperate cause, if he were able but to shew one such president of an Ordinance made by Parliament without the Kings consent, that was binding to the Kingdome in the nature of a Law. It is a part of the Kings oath to protect the Laws, to preserve Peace to His People: this he cannot doe without the Power of the Kingdome, which he challengeth not as a Partner, but solely as his own, by virtue of his Seigniory. So the Parliament it selfe acknowledged, *It belongs to the King and his part it is, through his royall seigniory straitly to defend force of armour, and all other force against his peace, at all times when it shall please him, and to punish*

*Edv. prim.*

*iſh them which ſhall doe contrary according to the Laws nd uſages of the Realme, and that the Prelates, Earles, arons, and Commonalty, are bound to aide him as their overaigne Lord, at all ſeaſons when need ſhall be.*

Here is a Parliament for the King even in the point. The Argument is not drawn as the Obſervator ſets it down negatively from Authority, or from a maimed nd imperfect induction, or from particular premiſſes to a generall concluſion; (every one of which is ophiſticall:) is thus, *Such or ſuch a Parliament did ot or durſt not doe, this or that, therefore no Parliaments may doe it*, or thus, *Some Parliaments not comparable to the worthies of this, have omitted ſome good ut of ſupineſſe or difficulty, therefore all Parliaments muſt doe the ſame*: but it runs thus, no parliaments did ever aſſume or pretend to any ſuch Power, ſome Parliaments have expreſſely diſclaimed it, and acknowledged, that by the Law of the Land, it is a Jewell or a Flower which belongs to the Crown, Therefore it is His Majeſties undoubted right, and may not be invaded by any Parliament. Yet further, it were well the Obſerver would expreſſe himſelfe, what he meanes by *ſome more Soveraigne good introducible*; the neceſſity of avoiding ruine, and introducing greater good is not the ſame: Dangers often come like torrents ſuddainly, but good may be introduced at more leiſure, and ought not to be brought in but in a lawfull manner; we may not *doe evill that good may come of it*. Take the Obſervers two inſtances, *When the Sea breakes in upon a County, a bank may be made on any Mans ground without his conſent*: but may they cut away another mans Land, to make

*Obſ. defended pag. 4.*

make an Herbour more safe or commodious with
the owners consent? No. *A Neighbours Ho*
*may be pulled down to stop the fury of a Scath-fire*: b
may they pull it down to get a better prospect,
gaine a more convenient high way? No. We des
to know what this *Soveraigne good introduci*
meanes, and are not willing to be brought into
Fooles Paradise with generall insinuations. Let it a
pear to be so Soveraigne and we will all become su
ters for it: but if it be to alter our Religion, or our for
of Government, we hope that was not the end of t
*Militia*. Lastly, when necessity dispenseth with pa
ticular Laws, the danger must be evident to all, th
concurrence generall, or as it were generall; one o
two opponents are no opponents: but where th
danger is neither to be seen nor to be named, so un
certaine that it must be voted whether there be an
danger or not, or perhaps be created by one or tw
odde Votes; this is no warrant for the practise o
that *Paramount* Law of *salus Populi*.

By this which hath been said we may gather a re
solution whether the King be under the Law an
how farr, I mean not the Law of God or Nature
but his own Nationall Laws. First by a voluntary
submission of himselfe, *& quod sub Lege esse debet*
*evidenter apparet, cum sit Dei Vicarius ad similitu*
*dinem Jesu Christi cujus vices gerit in terris*; bu
Christ was under the Law no otherwise then by vo
luntary submission. Secondly, the Law hath a di
rective Power over Kings, and all good Kings wil
follow it for example sake to their Subjects, for
Conscience sake to themselves. *Tacitus* saith of *Ves*

*Bract lib. 1. cap. 8.*

*pasian*

*asian* that being *antiquo cultu victuque* observing the old customes in his Diet and his apparrell, he was unto the *Romans*, *præcipuus adstricti moris Author*, an excellent pattern of Frugalitie. But the Law hath no coercive Power over him. This (besides his Power of pardoning and dispensing) may appear by these two reasons. First that no writ lyes against him in Law, but the party grieved hath his remedy by Petition or supplication. Secondly, that if upon petition he doth not right the wronged party, there is no course in Law to compell him; *satis sufficit ei ad pœnam quod Dominum expectet ultorem*, and elsewhere, *incidit in manus Dei viventis* he falls into the hands of the living God, which the Scripture saith is a fearfull thing; witnesse *Pharaoh*, *Senacherib*, *Nero*, *Domitian*, *Diocletian*, *Decius*, *Aurelian*, *Julian*, *&c.* Some slain by themselves, some by others, some drowned, some smitten with Thunder, some eaten with Worms: how seldome Tyrants escape punishment even in this World I see not why the Observer should be so angry, that this Doctrine should be pulpitted (as he phraseth it,) or why he should accuse it of flattery; whether is the greater curbe to restreine Princes, the fear of Man or of God; of temporall onely, or of temporall and eternall punishment? *Bracton*

*Si genus humanum & mortalia temnitis arma,*
*At sperate Deos memores fandi atque nefandi.*

The Observer acknowledgeth as much in effect, *The King is not accountable for ill done, Law hath only*



*a di-*

*a directive no coercive force upon his Person.* There
44. is a fourth answer to this Text, by distinguishing
between private Persons and subordinate Magistrates,
but because the Observer makes no use of it, I passe
by it.

## Observer.

*But Freedome indeed hath diverse degrees of Lati-
tude, and all Countries therein do not participate alike
but positive Laws must every where assigne those degrees.
The Charter of* England *is not strait in Privileges
es, neither is the Kings Oath of small strength to
Charter, or that though it be more precise in the care
Canonicall Privileges, and of Bishops and Clergy-men
(as having been penned by Popish Bishops) then of the
Commonalty, yet it confirmes all Laws and rightfull Cu-
stomes, amongst which we most highly esteeme Parliamen-
tary Privileges, and as for the word* eligerit *whether
it be future or past it skills not much, for if by the
Oath, Law, Justice, and Discretion be executed among
us, in all judgements, (as well in as out of Parliament)
and if Peace and godly agreement be intirely kept a-
mongst us all, and if the King defend and uphold all our
Laws and Customes, we need not feare but the King is
bound to consent to new Laws, if they be necessary, as
well as defend old, for both being of the same necessity,
the paralike trust must needs equally extend to both, and
we conceive it one Parliamentary Right and Custome
that nothing necessary ought to be denied. And the
word* eligerit *if it be in the* perfect tense, *yet shews that
the Peoples election had been the ground of ancient*

*...ows, and Customes, and why the Peoples Election in Parliament, should not be now of as great moment as ever I cannot discover.*

*Answer.*

*Momento fit finis, diu silva,* The Observer hath Sect 12.
long weaving a Spiders Webbe, and now he himselfe sweepes it away in an instant: for if positive Laws must every where assigne the degrees of liberty, what will become of those *tacite trusts and reservations*, of those secret and implicite, but yet necessary limits and conditions of Soveraignty, which if the Prince exceed, the Subject is left free, *nay he is bound by a higher duty then Oathes and all Ties of Allegiance whatsoever, to seek his own preservation and defence.* Calvin was of another mind, *Superior si potestate sua abutitur, rationem quidem olim reddet Deo,* In 1 Pet
*non tamen in presentia jus suum amittit.* Admitting this Doctrine that there are such secret reservations and condition, and these as generall as Safety Liberty and Necessity, and make the People their own Judges when necessity is; what is a violation of Liberty, and what doth indanger their safety; and all that great and glorious Power, which we give unto Princes, will become but like the Popes infallibility, and his temporall Dominion, which his Flatterers doe give unto him with so many cautions and reservations, that they may take it away when they please: *Take nothing and hold it fast.*

But leaving these flegmaticke speculations, I doe readily joyn hands with the Observer herein, That

the positive Laws of a Kingdome are the just measure and standard of the Liberty of the Subject. To say nothing of the great distance that is between our *European* Princes in extent of Power over their Subjects, to come home to our selves; we see some Corporations are indowed with more liberties and Priviledges then others (thanks to a favourable Charter, not to any antecedaneous Pactions;) we see what difference of Tenures is amongst us, some are Coppy-holders, some are Free-holders; some hold in Villen[illegible] some in Knight-service, some in free soccage, in Franke Almaine: whence springs this diversity but from custome and the pleasure of the Don who freely imposed what conditions he liked at such time as he indowed the ancestors of the present Possessors with such and such Lands. We have a surer Charter then that of Nature to hold by, *Magna Charta*, the English Mans jewell and Treasure, the fountain and foundation of our Freedome, the Walls and Bulwarke, yea the very life and soule of our security: He that goes about to violate it, much more to subvert it in whole or in part, I dare not curse him; but I say for my selfe, and let the Observer do the like, let him prove the shame and abject of Men, and his Posterity slaves. But doe you think it was *penned by Popish Bishops*? faire fall them for it: certainly they did that as English Bishops, and as Christian Bishops, not as Popish Bishops: long may their reformed Successors injoy the fruit of their Labours, if they doe not, others may looke to themselves.

*Jam*

*Jam tua res agitur paries cum proximus ardet.*

It is no new thing to beginne with Bishops and end with Nobles. It troubles you that they were so *precise in the care of Canonicall Priviledges*. 'Tis probable they did it out of Devotion or a Prophetick instinct, as foreseeing or fearing Schismaticall Times. Yet you confesse withall, that it confirmes *all Laws and rightfull Customs* to all Subjects indifferently. Now Sir we are come to a faire Issue, hold fast foote there: your next taske must be to shew what part of *Magna Charta* is violated by His Majesty; what Liberties there granted, are by him deteined from the Subject: if you doe not this, you have made us a very long discourse to little purpose. Your Argument consists of a Proposition and an Assumption; The Proposition is this, All Laws and lawfull Customs are confirmed to the Subject by *Magna Charta*, and His Majesties Oath for observation thereof. Your Assumption stands thus, But to have nothing necessary denyed us is a lawfull Custome, a Parliamentary Right and Privilege: you amplifie your Proposition (as the blind Senatour commended the fish) *at dextra jacebat piscis*; It is your assumption Sir which is denyed, bend your selfe the other way, and shew us in what particular words of *Magna Charta* or any other Charter, or any Statute this Privilege is comprehended, or by what prescription or president it may be proved: if you can doe none of these, sitte down and hold your peace for ever; The Charter of Nature will be in danger to be torn in

pieces,

pieces, if you ſtretch it to this alſo. To be denyed nothing? this is a Privilege indeed, as good as *Fortunatus* his purſe, or as that old Law which one found out for the King of *Perſia*, that he might doe what he would. But you limit it, he ought to deny them nothing which is neceſſary: what neceſſity doe you meane, a ſimple and abſolute neceſſity? that hath no Law indeed; or a neceſſity onely of convenience? but conveniences are often attended with greater inconveniences. A cup of cold Water to one who h[as] a feverish diſtemper, is convenient to aſſwage his preſent thirſt, but pernicious to the future habit of his body. Many things may produce preſent ea[se] yet prove deſtructive to a State in their conſequents. Theſe things therefore muſt be carefully ballanced, and by whom? will you be your own Judge? or will you permit His Majeſty to follow the Dictate of his own reaſon? ſo it is meet and juſt if you will have him ſuperſede from his own Right. Lay your hand upon your heart, if you have any Tenents who hold of you in Knight-ſervice, and they ſhall deſire to have their tenure changed to free Soccage, as being more convenient & conducible for them, are you bound to condiſcend? It is well known to all this Kingdome that the Kings thereof have ever had a negative voice, (otherwiſe they had leſſe power then a Maſter of a College or a Major of a Corporation,) That no Act is binding to the Subject without the Royall Aſſent, That to ſay the King will adviſe was evermore a ſufficient ſtop to any Bill. Yet the ground of this bold demand is but the Authors conceit, *we conceive it to be one Parliamentary right*;

and

and his reasons are such as may make a shew, but want weight to beget a very conceit. The former is, that new Laws and old *being of the same necessity, the publike trust must equally extend to both*. How often must he be told that the publicke trust is onely a trust of dependence, which begets no such Obligation as he conceits, *Offices of inheritance are rather matters that lye found in interest then in confidence*. Neither is there, neither can there be the same necessity of observing an old Law, to which a King is bound both by His Master and by His Oath, and of a new Law to which he hath not given his Royall Assent. If *Magna Charta* did extend to this, it were *Charta maxima* the greatest Charter that ever was granted. If the Kings Oath did extend to this it were an unlawfull Oath and not binding: To sweare to confirme all Laws that should be presented to him, though contrary to the Rule of Justice, contrary to the Dictate of his own reason. Among so many improbable suppositions, give leave to the other party to make one; The Author is not infallible, nor any Society of Men whatsoever. Put the case a Law should be presented for introducing or tollerating of *Socinianisme* or *Anabaptisme*, or the new upstart independency; is His Majesty bound to give his Assent? Surely no, *Not to assume his just power of Supremacy* (as your late new Masters confesse) *were damnable sinne*. His other Reason is this, it kills not whether the word *eligerit* (he should say *elegerit*) in the Kings Oath be in the *future tense* or in the *perfect tense*, whether he sweares to all such Customes as the People have chosen, or shall choose; for *it shews*

Lord. Ver. law.

that

*that the Peoples election was the ground of ancient Laws*, and that ought to be of *as great moment now as ever*. It is a rare dexterity which the Observer hath, with *Midas* to turn all he toucheth into Gold, whatsoever he finds, is to his purpose, past or to come all is one, but he would deceive us or deceives himselfe; for the Peoples election never was, nor now is the sole cause of a Law or binding Custome; but the Peoples election was the Sociall or Subordinate Cause, and the Royall Assent concurring with it they were ever joyntly the adæquate ground of [illegible] and still are of the same moment that they were joyntly and severally, which the Observer might have discovered with halfe an eye.

*he Kings oath.*

But because His Majesties oath at his Coronation, is so much insisted upon, as obliging him to passe all Bills that are tendred unto him by His Parliament, it will not be amisse to take this into further consideration, which I shall doe with all due Submission.

First, It must be acknowledged by all Men; that the King of *England* in the eye of the Law never dyes. *Watson* and *Clarke* (two Priests) pleaded that they could not be guilty of Treason, because King *James* was not crowned: The Resolution was, that the Coronation was but a Ceremony to declare the King to the People, so they were adjudged Traytours. The like measure in the like case suffered the Duke of *Northumberland* in Queen *Maryes* dayes, onely with this difference; *Watsons* and *Clarks* Treason was before the Coronation, but the Dukes before the very Proclamation. *Consensus expressus*

*per*

*per verba de presenti facit matrimonium*, a contract in words of the present tense, is a true Marriage and indissolvable: and yet for Solemnity sake, when the partyes come to receive the Benediction of the Church, The Minister though he knew of the contract, yet he askes *wilt thou have this Woman to thy wedded wife?* There is no duty which our Kings do not receive; as Oaths of Fealty, of Allegiance; no Acts of Royall Power which they doe not exercise, as amply before their Coronation as after. And therefore M. *Dolman* (otherwise *Parsons* the Jesuit, from whom these Men have borrowed all their grounds) erred most pittifully in this, (as he did in many other of your Tenets,) that a King is no more a King before his Coronation, then a Major of a Corporation is a true Major after his Election, before he have taken his Oath. To thinke a few scattered People, assembled without any procuration have the power of the Commonalty of *England*, is an Error fitter to be laught at then to be confuted.

Secondly, the words of the Oath (which beares markes enough in it selfe, of the time when it was made) are not to be presled further then Custome and practice (the best Interpreters of the Law) doe warrant, otherwise the Words *quus vulgus elegerit*, cannot without much forcing be applied to the Parliament. But admit the word *vulgus* might be drawn with some violence to signifie the House of Commons, by virtue of their representation: yet how have the House of Lords lost their interest, if the King be bound to confirme whatsoever the House of Commons shall present?

Thirdly, it cannot be denyed, that if the King be bound by a lawfull Oath to passe all Bills; it is not the form of denying it, but the not doing it, which makes the perjury. Therefore the form of the Kings answer *Le Roy Savisera*, cannot excuse the perjury in not doing. Neither doth it prove that the King had no power to deny, but that he is tender of a flat denyall, and attributes so much to the judgement of His great Councell, that he will take further advice. This would be strange Doctrin, (indeed incredible) that all the Kings of *England* who have given this answer have been forsworn, and neither Parliament nor Convocation to take notice of it, in so many Ages, nor in the next succeeding Parliament after so long advise to call for a further answer.

Fourthly, it is confessed that in Acts of Grace, the King is not bound to assent (it is well if he have not been restreined of this Right,) That in all Acts where His Majesty is to depart from the particular Right and Interest of His Crown, he is not obliged to assent (and was not that of the *Militia* such a case?) Lastly, that though he be bound by oath to consent, yet if he doe not consent, they are not binding Laws to the Subject. Thus farre well But then comes a handfull of Gourds that poisons the portage · *except in cases of necessity*. Give to any person or Society a Legislative power without the King in case of necessity; permit them withall to be sole Judges of necessity, when it is, how long it lasts: and it is more then probable the necessity will not determine till they have their own desires, which is the same

same in effect as if they had a Legislative Power. Necessity excuseth whatsoever it doth, but first the necessity must be evident: there needs no such great sinne who shall be Judge of necessity, when it comes indeed, it will shew it selfe; when extreme necessity is disputable, it is a signe it is not reall. Secondly, the Agent must be proper, otherwise it cuts in sunder the very sinews of Government, to make two Supremes in a Society, and to subject the People to contrary commands: *If the Trumpet give an uncertain sound, who shall prepare him selfe to Battell?* 1 Cor. 14. There can be no necessity so pernicious as this very Remedy.

Fifthly, the great variety of Forms and presidents seems to prove that one precise form is not simply necessary: and the words *adjiciantur quæ justa fuerint*, and King *Henry* the eights enterlining it with his own hand, do prove that it is arbitrary at least in part. To interline it, to interline it with his own hand, to leave it so interlined upon Record, O strange! If this clause had been of such consequence, we should have heard of some question about it, either then or in some succeeding Parliament; but we find a deep silence. *Thomas Arundell* Arch-Bishop of *Canterbury*, in Parliament chargeth *Henry* the fourth with his Oath which he did *voluntarily* make. But to the forms. First, the Oath which King *James* and King *Charles* did take runns thus. *Sir will you to grant to hold and keep the Lawes and rightfull Customes which the Commonalty of this Kingdom have.* Here is neither have chosen, nor shall choose. The Oath of *Edward* the sixth was Stow p.

this, *Doe you grant to make no new Laws, but such as shall be to the Honour and glory of God, and to the good of the Common-wealth, and that the same shall be made by the consent of your People, as hath been accustomed.* Here is no *elegerit* still, yet his Age freed him from the very thought of improving His Prerogative. King *Henry* the eight corrected the form then presented to Him thus, *And affirme them which the Nobles and People have chosen with my consent.* Here is *have chosen* and the *Kings Consent* added to boote. Doctor *Cowell* in his Interpreter, recites the Kings Oath out of the old abridgement of Statutes set out in *Henry* the eights Daves much different from this, as that the *King should keep all the Lands Honours &c. of the Crown whole without diminution and reassume those which had been made away.* And this clause in question runnes thus, *He shall grant to hold the Laws and Customs of the Realme, and to his Power keep them and affirme them, which the Folke and People have made and chosen*; and this seems to have been the Oath of His Predecessors. But perhaps if we looke up higher, we shall find a perfect agreement in this point. Our next step must be to *Henry* the fourth and *Richard* the second, a Tragicall Time when the State run contrary waves like a whirligigge, fitter for the honour of the Nation to be buried in oblivion then drawn into president. But this Oath being no Innovation, it may serve well enough. Yet the Oaths of these two Kings do not agree so exactly as to settle a certain forme, as to instance onely in the clause in question: *Henry* the fourths Oath runs thus, *concedis justas Leges & consuetudines*

*uetudines esse tenendas, & promittis pro te eas esse pro-*
*gendas & ad honorem Dei corroborand quas vulgus*
*legerit*: which last word signifies indifferently either
ave chosen or shall choose. Neither doth the Re-
ord say that this was the very Forme taken by *Henry*
he fourth, but that it was the usuall form taken by
he Kings of *England*, and twice by *Richard* the
econd, and for proof of what it saith, referres us
o the Registers of the Arch-Bishops or Bishops *pro-*
t *in libris pontificalium Archiepisc. et Episc. plenius*
*ontinetur* This *prout* is a clear evidence that this pre-
ise Form had no ground in Statute or in Common
Law, but was a Pontificall rite. The Oath of *Ri-*
*chard* the second, related in the close Rolls of the first
Year of his Raigne, even in this very clause differs
in two materiall things: one is, that to *justas Leges*
*& Consuetudines*, there is added *Ecclesiæ*: the other
is, that to *elegerit* is added *juste & rationabiliter*,
which the People have chosen or shall choose justly
and reasonably: which limitation, if the Oath look
forward to future Laws, must of necessity be either
expressed or understood, otherwise the Oath is un-
lawfull and doth not bind, *jusjurandum non debet esse*
*vinculum iniquitatis*. Here also the word *elegerit*
is doubtfull whether past or future. If it be urged
that to corroborate must de understood of such Laws
as have not passed the Royall Assent; the answer is
easy, that the best confirmation of Laws is the due
execution of them. Now from our English and La-
tin Formes, our last step is to the French, which was
taken by *Edward* the second and *Edward* the third,
(as it is said) and runnes thus. *Sire grantes vous a te-*

*nir*

*nir & garder lesleys & les customes dreiturez les lez qe*
*els la communaute de vostre Royaume aur esleu & les d*
*fenderez & affermerez al honneur de dieu a vostre pou*
First how it shall appear that this Oath was take
by *Edward* the second and *Edward* the third, we are y
to seek. A Bishops Pontificall, and much more
Heraulds notes taken cursorily at a Coronation, do
not seem to be sufficient Records nor convincin
proofe in our Law: And *Bracton* who lived abou
the same times sets down the Oath otherwise. *Debe*
*Rex in Coronatione sua in nomine Jesu Christi pra*
*stito Sacramento, hæc tria promittere populo sibi Su*
*dito; primo se præceptarum & pro viribus impensu*
*rum, ut Pax Ecclesiæ & omni populo Christiano om*
*suo tempore observetur: Secundo ut omnes rapacitate*
*& omnes iniquitates omnibus gradibus interdicat*
*Tertio ut in omnibus judiciis æquitatem præcipiat &*
*misericordiam.* Here is neither have chosen nor sha
choose. Secondly, though the French doe agree with
the Latin much for Sense and substance, yet it is
not the same Forme. Thirdly the King grants to
defend the Laws and Customes, but it is no Law
till it hath received Royall Assent, it is no Cu
stome till it be confirmed by a lawfull prescription.
Fourthly, that the word *Elect* is joyned immediately
to *Customes*, which seems not so proper if *reddendo*
*singula singulis*, it ought to be referred to Laws and
not to Custome. Fiftly, what the *Norman* French
may differ from the *Parisian*, or both of them then
from what they are now, or both then and now from
our Law French, I cannot determine: But take it
at the worst, the words in question *aur esleu* make

*Bracton lib. 3 cap. 9.*

lesse

esse for the Observer then *elegerit* it selfe, and doth
ignifie *have chosen*, or in the most Grammaticall Pe-
antical construction that can be made shall have cho-
se; whereas if it were shall choose, it should be *e-*
*ris* or *eligat*. If the Herauld did take his notes as
ll as he translates, his remembrances are but of small
oment. Before all these Formes I reade of others
n late Authors (for I have not opportunity to see
e originall Records,) as that of King *Richard* the
rst, agreeing much with *Bracton*, *To observe Peace*
*honour & Reverence to Almighty God, to his Church*
*nd to the Ministers of the same, To administer Law*
*nd justice equally to all, To abrogate evill Laws and*
*ustoms and to maintain good*. Here is indeed a refe-
ence to future Law, but no dependence on other
ens judgements. And to this King *Johns* Oath
ame nearest of any Form yet mentioned, though
ot exactly the same as differing in the first clause in
his, *To love and defend the Catholicke Church*.

To summe up all then in a word, First, here is no cer-
ain forme to be found. Secondly, for those Formes
hat are, the Parliament Rolls referre us to the Bi-
hops Register. Thirdly, few of those Formes have
he word *elegerit* or *choose* in them, and those that
ave it, have it doubtfully, either have chosen or shall
hoose. Fourthly, admitting the signification to be fu-
ure, yet the Limitation which is expressed in the Oath
f *Richard* the second *juste & rationabiliter*, justly &
easonably, must of necessity be understood in all, other-
ise the oath is unlawfull in it selfe, to oblige the King
o perform unjust and unreasonable Propositions, and
inds not. Whether it be expressed or understood,

it leaves to the King a latitude of Judgement, t
examine what is juſt and reaſonable, and to follow th
Dictate of his own underſtanding ; the practiſe of a
Parliaments in all Ages confirmes this expoſitio
Laſtly, admitting,but not granting, the word *eleger*
to be future, and admitting that the limitation o
*juſte & rationabiliter* could be ſuſpended, yet it woul
not bind the King to confirme all Laws that are ten
dred,but only excluſively to impoſe no other Laws o
his Subjects, but ſuch as ſhall be preſented & approve
in Parliament. It hath been queſtioned by ſome
whom the Legiſlative Power did reſt by Law, whe
ther in the King (alone as ſome old Forms doe ſeem
to inſinuate,) *Conceſſimus, Rex concedit, Rex ordin*
*Rex ſtatuit, Dominus Rex de communi ſuo concil*
*ſtatuit, Dominus Rex in Parliamento ſtatuit,*) or
the King and Parliament joyntly : And what is th
power of Parliaments in Legiſlation, Receptive
Conſultive, Approbative, or Cooperative · An
whether the making of Laws by Parliament be (a
ſome have ſaid) *a mercyfull Policy to prevent com*
*plaints not alterable without great perill* ; or (as
ſeemes rather) an abſolute requiſite in Law and
matter of neceſſity, there being ſundry Acts infer
our to Law-making, which our Lawyers declare in
valid, unleſſe they be done by King and Parliamen
Yet howſoever it be, *abundans Cautela non nocet*, fo
greater Caution it yeelds more ſatisfaction to th
People to give ſuch an Oath, that if the King ha
no ſuch power he would not uſurpe it, if he had ſuc
a Power, yet he would not aſſume it. And this
clearly the ſenſe of that oath of *Edward* the ſix

Tha

That he would make no new Laws but by the consent of His People, as had been accuſtomed. And this may be the meaning of the clauſe in the Statute, *Sith the Law of the Realme is ſuch, that upon the Miſchiefes and Dammages which happen to this Realme, He is bound by his Oath with the accord of His People in His Parliament, thereof to make Remedy and Law.* 25 *Edv.* 3. Though it is very true, that this being admitted (as then it was) to be a Law in Act, the King is bound by another clauſe in his Oath, and even by this word *elegerit* in the perfect tenſe *hath choſen*, as well or rather more then if it were in the future *ſhall chooſe*. And ſo it follows in that Statute plainly, that there was a Statute Law, a Remedy then in force not repealed, which *the King was bound by his Oath to cauſe to be kept, though by ſufferance and negligence it hath been ſince attempted to the contrary.* So the Obligation there intended, is to the execution of an old Law not the making of a new. *Richard* the ſecond confeſſeth that he was bound by his oath to paſſe a new grant to the Juſtices of Peace. But firſt it appears not that this was a new Bill: Secondly, if it did, yet *Richard* the ſecond was then but fourteen yeares old: And thirdly, if his age had been more mature, yet if the thing was juſt and beneficiall to the People, without prejudice to the rights of his Crown, and if his own reaſon did dictate ſo to him, he might truely ſay that he was bound to doe it both by His Oath and his Office. Yet his Grand-Father *Edward* the third revoked a Statute, becauſe it was prejudiciall to the rights of his Crown, and was made without his free conſent. *anno* 15. *Edward.* 3.

## Obſerver.

*That which reſults from hence is, if our Kings receive all Royalty from the People, and for the behoofe of the People, and that by a ſpeciall truſt of ſafety and Liberty expreſly by the people limited, and by their own grants and Oaths ratified, then our Kings cannot be ſaid to have ſo inconditionate and high a propriety in all our Lifes, Libertyes and Poſſeſſions, or in anything elſe to the Crown apperteining, as we have in their dignity or in our ſelves, and indeed if they had, they were not born for the People, but meerely for themſelves, neither were it lawfull or naturall for them to expoſe their Lifes and Fortunes for their Country, as they have been bound hitherto to doe according to that of our Saviour,* Bonus Paſtor ponit vitam pro ovibus,

## *Anſwer.*

*Ex his præmiſſis neceſſario ſequitur colluſio.* All your main Pillars are broken reeds, and your Building muſt needs fall: For our Kings doe not receive all Royalty from the People, nor onely for the behoofe of the People, but partly for the People, partly for themſelves and theirs, and principally for Gods glory: Thoſe conditionate reſervations and limitations which you fancy, are but your own drowſy dreames; neither doth His Majeſties Charter, nor can His Oath extend to any ſuch fictitious privilege as you deviſe: The propriety which His Majeſty hath in our Lifes, Libertyes, and Eſtates, is of publicke Dominion

ct. 13.

minion not of private Possession: His interest in things appertaining to the Crown is both of Dominion and Possession: the right which we have in him is not a right of Dominion over him, but a right of Protection from him and under him: and this very right of Protection which he owes to us, and we may expect from him, shews clearely that he is born in pain for his People, and is a sufficient ground for him to expose his Life and Fortunes to the extremest perills for his Country. The Authours inference, that it is not lawfull or naturall according to these grounds, is a silly and ridiculous collection, not unlike unto his similitude from the Shepheard whom all men know to have an absolute and inconditionate Dominion over his Sheep, yet is he bound to expose his Life for them.

**Observer.**

*But now of Parliaments. Parliaments have the same efficient cause as Monarchies, if not higher: For in truth the whole Kingdome is not so properly the Authour as the essence it selfe of Parliaments, and by the former Rule it is* magis tale, *because we see* ipsum quid quod efficit tale. *And it is I think beyond all Controversy, that God and the Law operate as the same causes both in Kings and Parliaments, for God favours both, and the Law establishes both, and the act of Men still concurres in the sustentation of both. And not to stay longer on this, Parliaments have also the same finall cause as Monarchyes, if not greater, for indeed publike*

*licke Safety and Liberty could not be ſo effectually provided for by Monarchs, till Parliaments were conſtituted, for ſupplying of all defects in that Government.*

*Anſwer.*

ect. 14. The Obſerver having ſhewed his teeth to Monarchs, now he comes to fawn upon Parliaments: the Italians have a proverbe, *He that ſpeakes me fairer then he uſeth to doe, either hath deceived me or he would deceive me.* Queen *Elizabeth* is now a Saint with our Schiſmaticall Mar-Prelates; but when ſhe was alive, thoſe rayling *Rabſhekehs* did match her with *Ahab* and *Jeroboam*: now their tongues are ſilver Trumpets to ſound out the praiſes of Parliaments; it is not long ſince they reviled them as faſt, calling them Courts without Conſcience or Equity. God bleſſe Parliaments, and grant they may doe nothing unworthy of themſelves or of their name, which was *Senatus Sapientum*: The commendation of bad men, was the juſt ground of a wiſe mans fear. But let us examine the parculars. *Parliaments* (you ſay) *have the ſame efficient cauſe as Monarchyes, if not higher*, (it ſeemes you are not reſolved whether) Higher? How ſhould that be? unleſſe you have deviſed ſome Hierarchy of Angells in Heaven to overtoppe God, as you have found out a Court *Paramount* over his Vicegerent in Earth. But you build upon your old ſandy Foundation, that all Kings derive their power from the People. I muſt once more tell you, the Monarchy of this Kingdome is not from the People as the efficient, but from the

the King of Kings. The onely Argument which I have seen pressed with any shew of probability (which yet the Observer hath not met with) is this, That upon deficiency of the Royall Line, the Dominion escheats to the People as the Lord *Paramount*. A meere mistake, they might even as well say, that because the Wife upon the death of her Husband is looséd from her former obligation, and is free either to continue a Widdow, or to elect a new Husband, that therefore her Husband in his Life time did derive his Dominion from Her, and that by his Death, Dominion did escheat to Her as to the Lady *Paramount*: yet if all this were admitted it proves but a respective Equallity. Yes, you adde that the Parliament is the very essence of the Kingdome, that is to say, the cause of the King, and therefore by your *Lesbian* Rule of *quod efficit tale* it is in it selfe more worthy and more powerfull. Though the Rule be nothing to the purpose, yet I will admit it and joyne issue with the Observer; whether the King or the Parliament be the cause of the other, let that be more worthy. That the King is the cause of the Parliament, is as evident as the Noon-day light; He calls them, He dissolves them, they are His Councell, by virtue of His writ they doe (otherwise they cannot) sit: That the Parliament should be the cause of the King, is as impossible as it is for *Shem* to be *Noahs* Father. How many Kings in the World have never known Parliament, neither the name, nor the thing? Thus the Observer, *In the infancy of the World most Nations did choose rather to submit themselves to the discretion*

of

*of their Lords, then to relye upon any Limits*; And
little after, *yet long it was ere the bounds and condi-
tions of Supreme Lords, were so wisely determined, a
quietly conserved as now they are.* It is apparent then
Kings were before Parliaments even in time: Ou
*French* Authours doe affirme, that their Kingdom
was governed for many Ages by Kings without Par
liaments happily and prosperously; *Phillip* the fai
was the first Erecter of their Parliaments of *Paris* an
*Mountpelliers*. As for ours in *England*, will you hea
Master *Stow* our Annalist; thus he in the sixteent
of *Henry* the first, in the name of our Historiogra
phers, not as his own private opinion, *This doe the
Historiographers note, to be the first Parliament i
England, and that the Kings before that time were ne
ver wont to call any of their Commons or People t
Councell or Lawmaking.* It may be the first held b
the *Norman* Kings, or the first held after the *Nor
man* manner, or the first where the people appear
by Proctors, yet we find the name of Parliament
before this, either so called then indeed, or by a *Pro
lepsis* as *Lavinia Littora*. And not to contend abou
the name, this is certain, that long before in th
dayes of the *Saxon* Kings, there was the Assembly
of Wise Men or *Mickle Synod*, having an Analogy
with our Parliaments, but differing from them in
many things. So doth that Parliament in *Henry* the
first his time differ from ours now: Then the Bishops
had their votes in the House of Lords, now they have
none; Then Proctors of the Clergy had their Suf-
frages in the House of Commons, now they are ex-
cluded; Then there were many more Barons then

there

here are now Burgesses, every Lord of a Mannour who had a Court Baron was a Parliament man *natus* y right; Then they came on generall summons, af- r upon speciall Writ. But both the one and the ther were posteriour to Kings, both in the order f nature and of time: How should it be otherwise? he end of Parliaments is to temper the violence of overaigne Power, the Remedy must needs be later then e Disease, much more then the right Temper. Degenerate Monarchy becomes Tyranny, and the cure f Tyranny is the mixture of Governments; Parli- ments are proper adjuments to Kings; *Parliaments ere constituted to supply the defects in that Govern- ent*, saith the Observer himselfe; here you may ap- ly your Rule to purpose, that the end is more xcellent then the meanes. I deny therefore that the ingdome is the essence of Parliaments: there is a reefold Body of the State, the essentiall Body, 1. 2. 3. e representative Body, and the virtuall Body: the ssentiall Body is the diffused company of the whole Nobility, Gentry, Commonalty throughout the King- ome; the representative Body are the Lords, Cit- yzens and Burgesses in Parliament assembled and in- usted: the Virtuall Body is His Majesty, in whom ests the life of Authority and power legislative, exe- utive virtually: yet so as in the excercise of some arts of it, there are necessary requisites, the consent nd concurrence of the representative Body. From his mistaken ground the Observer draws sundry er- roneous conclusions, *Posito uno absurdo sequuntur mille*.

Hence proceeds his Complaint, *That severance*

*hath*

*hath been made betwixt the Parties chosen and the Parties choosing, and so that that great privilege of all privileges, that unmoveable Basis of all Honour and power, whereby the House of Commons claimes the intire right of all the Gentry and Commonalty of* England, *hath been attempted to be shaken.* A power of representation we grant respective to some ends, as to consent to new laws, to grant Subsidies, to impeach Offenders, to find out and present grievances, and whatsoever else is warranted by lawfull Customes; but an intire right to all intents and purposes against Law and lawfull Custome we deny. An intire right, what to our Wifes and Children, to our Lands and Possessions? this is not tollerable.

Hence also he tells Magistrally enough, of an arbitrary Power in the Parliament, *That there is an arbitrary Power in every State somewhere, it is true, 'tis necessary and no inconvenience followes upon it, every man hath an arbitrary power over him selfe, so every State hath an arbitrary power over it selfe, and there is no Danger in it; for the same reason, if the State intrust this to one Man, or few there may be danger, but the Parliament is neither one nor few, it is indeed the State it selfe.* Now the Maske is off, you have spunne a fair threed, is this the end of all your goodly pretences? if this be your new Learning, God deliver all true English men from it: Wee chose you to be our Proctors not to be our Lords: We challenge the Laws of *England* as our Birthright and Inheritance, and dislike Arbitrary Government much in one, but twenty times worse in more. There is no Tyranny like many-headed Tyranny: when was ever so much Blood shed and Rapine under one

Tyrant

Tyrant, as under three in the Triumvirate? And the more they are, still of necessity there will be more ingagements of Love and Hatred and Covetousnesse and Ambition, the more picking and contriving one with another, the more Danger of Factious and Seditious tumults, as if the evills of one Forme of Government were not sufficient, except we were overwhelmed with the deluge of them all; and he that is most popular (who is most commonly the worst) will give Laws to the rest. Therefore it hath ever been accounted safer to live under one Tyrant then many: The Lust, Covetousnesse, Ambition, Cruelty, of one, may be sooner satisfied then of many, and especially when the power is but temporary and not hereditary nor of continuance: We see Farmers which have a long terme, will husband their grounds well, but they that are but Tenents at will, plough out the very heart of it. No Sir (I thanke you) we will none of your Arbitrary Government. And supposing, but no way granting, that the Parliament were the essentiall Body of this Kingdome, or (which is all one) were indowed with all the power and Priviledges thereof to all intents and purposes; yet it had no Arbitrary Power over it selfe, in such things as are contrary to the Allegiance which it owes to His Majesty, and contrary to its Obligation to the received Laws and Customs of this Land.

Hence he ascribes to Parliaments a power to call Kings to an account, heate himselfe, *That Princes may not be now beyond all Limits and Lawes by any private Persons, the whole community in its underived Majesty shall convene to due justice.* Here we have it



expresly

expresly, that the Parliament is the whole Commu-
nity, that it hath a Majesty, that this Majesty is un-
derived, that it hath power to cry Princes, yea to
doe justice upon them. Hereto we have this ground-
1 Pet. 2. 13. stood Saint *Peter*, *Submit your selves to every Ordi-*
*nance of Man for the Lords sake, whether it be to the*
*King as Supreme*. It seems the Parliaments which
passed the Oaths of Supremacy and Allegiance, did not
understand their own right, till this third Sect dropp-
ed from Heaven to inform them: And above all our
Non-Conformist Ministers in their solemne Pro-
testation are deepest in this guilt, who affirme so con-
fidently, that for the King to assume Supremacy,
or for the Church to deny it, were damnable sinne,
*Yea, though the Statutes of the Kingdome should de-*
*it unto Him*. What may his fellow Subject expect
from the Observator, who is so sawcy with his Sove-
raigne? But before I leave this point, I desire to be
informed how this new Doctrin agrees with that un-
deniable principle of our Law, *The King can do no*
*wrong*? The Observator glosseth it thus. That He can
doe no wrong *de jure*, but *de facto* he may; which is
the drowsiest dreaming devise, that ever dropped
from any Mans pen in his right Wits: *Judas* or the
Devill himself can doe no wrong *de jure*, unless both
parts of a contradiction can be true: A fair Privi-
lege to give a Prince, which a high way Thiefe may
challenge. It may with more probability be ex-
pounded thus, That the King is to discharge the pub-
lick Affaires of the Kingdome, not by himself, but
by His Officers and Ministers; therefore if any thing
be amisse or unjust, they are faulty, they are accoun-
table

countable for it; nor He. But there seems to be something more in this principle then thus: For first by the same reason a man might say the King can doe no right, if he can doe nothing by himself, he is not capable of such thanks as *Tertullus* gave to *Felix*: Secondly, it would be very strange, that a King should be excluded from the personall discharge of all manner of duties belonging to his high calling, and might occasion the renewing of the Womans complaint against *Philip* of *Macedon*, why then art thou King? this were to make His Majesty another *Childerick*, one of the old Ciphers or titulary Kings of *France*, and put all the power into the hands of a Major of the Pallace, or a Marshall, or some other Subject. What is it then? there must be something more in this old Maxime of our Law, that *The King can doe no wrong*. And it is this doubtlesse, that in the intendment of Law his Person is sacred, he is freed from all defects, (as though he be a Minor or an Infant, yet in the eye of the Law he is always of full age) he owes account of his doings to God alone, the Law hath no coercive power over him. This is that which *Samuel* calls *The Law of the Kingdom*, not to shew what a King may lawfully doe, but what a Subject ought to bear from a lawfull King. *To thee alone have I sinned*, said *David*; he had trespassed against *Uriah* and *Bathsheba*, yet he saith to thee onely have I sinned, *quia Rex erat*, because he was a King, and accountable to none but God, as *Clemens Alexandrinus*, *Arnobius*, *Saint Jerome*, *Saint Ambrose*, Venerable *Bede*, *Euthymius*, and sundry others do all affirme upon this one

platour and Gregory of Tours, Si quis de nobis, If any one of us O King, doe passe the bounds of justice, you have power to correct him, but if you exceed your limits who shall chastise you? We may speake to you, if you list not hearken, who can condemne you, but that great God, who hath pronounced himselfe to be Righteousnesse. And even Antonine whom the Observer so much commends for a renowned and moderate Prince, yet is positive in this, Solus Deus Judex Principis esse potest, God alone can be Judge of a Soveraigne Prince. In the Parliament at Lincolne, under Edward the first, the Lords and Commons unanimously affirme the same, with a wonder that any Man should conceive otherwise, That the King of England neither hath answered, nor ought to answer for his Right, before any Judge Ecclesiasticall or Secular, ex praeeminentia status sui, by reason of the preheminence of His Regall Dignity, and Custome at all times inviolably observed.

To try Princes and to doe justice; Some man would desire to know how farre this Justice may be extended? whether peradventure to depose them and dethrone them, to exalt them & depresse them, Constituere destituere, construere destruere, fingere diffingere? But for this they must expect an Answer from the Observer by the next post, when he sees how the people will dance after his pipe, and whether his misled Partners will goe along the whole journy or leave his Company in the mid way; when he hath sufficient strength, then it is time and not before to declare himselfe: Till then he will be a good child, and follow Saint Pauls advice in part; Stoppage is

no

no payment in our Law. Suppose the Prince faile in his duty, are the Subjects therefore free from that obligation which is imposed upon them by the Law of God and Nature? When His Majesty objects that a deposition is threatned, at least intimated, what doth the Observer answer? he doth not disclaime the power but onely deny the fact: Thus he saith, *It may truely be denied that ever free Parliament, did truely consent to the dethroning of any King of England, for that Act whereby* Richard *the second was dethroned, was rather the Act of* Henry *the fourth and His victorious Army, then of the whole Kingdome.* Marke these words, *that any free Parliament*. So, it seemes that some Parliaments are not free: And again *did truely consent*, there may be much in that word also; First, whether they who are overawed with power of unruly *Mermidons*, may be said to consent truely and *ex animo*? Secondly, whether they who consent meerely for hope of impunity to escape questioning for their former oppressions and extortions, may be said to consent truely? Thirdly whether they who consent out of hope to divide the spoyle, may be said to consent truely? Fourthly, whereas by the Law of Nations, the rights and voices of Absentees, do devolve to those that are present; if they be driven away by a just and probable fear, whether they may be said to consent truely? Lastly, they that follow the Collier in his Creed by an an implicit Faith without discussion resolving themselves into the Authority of a Committee or some noted Members, may they be said to consent truely? That which followes of *Henry* the fourth and his victorious Army, shews the Observer to be as great an

Here-

Merrick in Policy as *Machiavell* himselfe; he might better have said the Usurper and his rebellious Army. For a Subject to raise Arms against his Soveraigne, to dethrone him (as *Bulenbrooke* did,) and by violence to snatch the Crown to himselfe in prejudice of the right Heires, is Treason confessed by all men. His acquisition is meere usurpation, & for any Person or Society of Men to joyn with him, or to confirme him, is to be partakers of his sin. But Gods judgements pursue such disloyall Subjects and their posterity, as it did them. The greatest Contrivers and Actors in that Rebellion, for a just Reward of their Treason, did first feele the edge of *Henryes* victorious Sword, and after them *Henries* Posterity, and the whole English Nation smarted for *Richards* blood. It is observed that all the Conspirators against *Julius Cæsar* perished within three yeares, some by judgement of Law, others by Ship-wracke upon the Sea, others by battail under the sword of their conquering Enemyes, others with the same bodkin wherewith they had stabbed their Emperour; one way or other vengeance overtooke them every Man. What others say of *Richards* resignation, is as weake, which was done by cure ffe and imprisonment, or at the best for fear of imminent Mischief.

To conclude this Section; God and the Law operate both in Kings and Parliaments: but not in both alike. God is the immediate cause of Kings, the remote of Parliaments. Kings and Parliaments have the same ultimate and *Architectonicall* end, that is, the tranquillity of the whole Body Politicke; but not the same proper and next ends, which in the Par-

liament

Parliament is to advise the King, supply the King, and in the constitution of new Laws to concurre with the King: I grant (to speake in his Majestyes own words more full then the Observers,) *That Parliaments are so essentiall a part of the constitution of this Kingdome, that we can attein no happinesse without them.* But to conclude from hence their Superiority above Kings, or equality with Kings, is to subject the principall efficient to every secundry cause, subordinate, instrumentall, or *sine quanon.*

## Observer.

*Two things are aimed at in Parliaments not to be attained to by other meanes. First, that the interest of the People might be satisfied, Secondly, that Kings might be better counsailed. In the summons of* Edward *the first* (claus. 9. E. I. 3. dors.) *we see the first end of Parliaments expressed: for he inserts in the writ, that whatsoever affaire is of publick concernment, ought to receive publicke approbation* quod omnes tangit, ab omnibus approbari debet & tractari. *And in the same writ he saith, this is* Lex notissima & provida circumspectione stabilita, *there is not a word here but it is observable, publicke approbation, consent or treaty is necessary in all publicke expedients, and this is not a meere usage in* England *but a Law, and this Law is not subject to any doubt or dispute, there is nothing more known, neither is this known Law extorted from Kings, by the violence and injustice of the people, it is duely and formally established, and that upon a great deal of reason, not without the providence and circumspection of all the States.*

Were

*Were there no further Antiquity then the Raigne* of Edward *the first to recommend this to us, certainly there ought to be no reverence with-held from it, for this Prince was Wise, Fortunate, just and valiant beyond all his Predecessors, if not Successors also, and therefore it is more glory to our Freedomes that as weak and peevish Princes have most opposed them, so that he first repaired the breaches, which the conquest had made upon them. And yet it is very probable, that this Law was farr ancienter then his Raigne, and the words* Ita stabilita & notissima *seemes to intimate, that the Conquest it selfe had never wholly buried this in the publicke ruine and confusion of the State. It should seem at this time* Llewellins *troubles in* Wales *were not quite suppressed, and the French King was upon a designe to invade some pieces of ours in* France, *and therefore he sends out his summons,* ad tractandum, ordinandum, faciendum, cum prelatis proceris & aliis incolis Regni, *for the prevention of these dangers. These words* tractandum, ordinandum, faciendum, *doe fully prove that the people in those dayes were summoned ad* consensum *as well as* consilium, *and this Law* quod omnes tangit &c. *shews the reason and ground upon which that consent and approbation is founded.*

*Answer.*

Pag. 15. The Observer is just like a winter Brooke, which swells with water when there is no need, but in summer when it should be usefull, is dried up: for all the absurd Paradoxes which he brings in this treatise, he produceth not one Authority but his own;

and

d here to confirme a known truth which no man de-
es, he cites Rolls and adornes them with his glosses.
r my part I know no man that did ever envy or
aligne the honour of *Edward* the first except *Jo-*
*nnes Major*, who was angry with him for his Nor-
ren Expedition, *Edwardus Longshankes cum longis*
*biis suis venit in Scotiam.* But what is this to your
rpose? yes, it makes for the glory of our *Freedomes*,
*t as weake and yeevish Kinges oppressed them, so he re-*
*ired the breaches of them*: How doe you know that
this summons also? I see you are dextrous, and
n soone make an ell of an inch: but in truth you are
ry unfortunate in your instances; *Edward* the first
as a much greater Improver of the Royalty then
ny of his Predecessours, in which respect he is stiled
our Chroniclers, *the first Conquerer after the Con-*
*erer.* That which was urged to his Father, was
ver that I read of tendred to him, for the Parlia-
ent to have the nomination of the chiefe Justice,
hancellour, and Treasurer, but onely once in his
hole time, and then being rejected with a frown
as never moved more. It is more probable or rather
pparent, that the Lenity, irresolution, and mutable
isposition of Prince, have been that which hath im-
oldened Subjects to make insolent and presumptu-
us demands to their Soveraignes.

Thus for the Man, you are as ample for the Law,
hat it is *Lex notissima*, & not only *notissima* but *stabi-*
*ita*, lastly *stabilita provida circumspectione.* A trimme
gradation, *quid tanto dignum feret Observator hiatu?*
who reads this and believes not that some great moun-
ain is travelling? yet in very deed it is with no-

thing but a ridiculous mouse: *postquam incruduit pu-na*, after the fray grows hot, dishes and trenchers turned to weapons; said *Erasmus*. Let your La- speake itself, *That which concerns all Men ought to be approved or handled by all Men.* Who denyes it, shall easily grant you that this Law is not onely a cienter then the first *Edward*, but even as ancient the first *Adam*; a part of the Law of Nature, ingrafted in the grounds of it. But that you may not slip away in a mist of Generalities, (as it is your use) on word of your *tangit*, another of your *approbari debet*, *That which concerns all Men*, Sir all Men may be said to be concerned two wayes, either in the consequence of affairs, or in the management thereof. This latter concernment gives a right sometimes to counsell only, sometimes both to counsell and approve, sometimes both to counsell approve and act according to the private constitutions of Societyes, but the former implyes no right, neither *ad approbandum* nor yet *ad intendum*. As for example, the meanest Freshmen are concerned in the Statutes and Orders of the University; yet are none admitted to debate them but the Visiters, Heads, and at the lowest the Regent Masters. And this exception holds in all cases, where either Inferiours or their Predecessours have legally divested themselves of this power by their proper act, or where this trust is committed to Superiours, by the Laws divine, naturall, or nationall.

Secondly the Counsell, Consent, or act of Proctors, Atturnyes, and generally of all Trustees, whether one or more, whether rightfully elected or imposed, according to the latitude of their trust ought

be interpreted as the counsell, consent, act of those persons by whom, or over whom, or for whom they are so trusted, and whose power virtually they doe retaine. So as a present and posteriour consent, is not necessary to His Majesty, for the excercise of any branch of that Imperiall power, which by law or lawfull custome, is annexed to his Crown. And therefore *Edward* the first his Summons *audiendum, videndum, faciendum*, which is the same in effect with all summons since, will doe your cause no good in the world, unlesse you may have leave to doe as the Devill did with Christ, leave out *in viis tuis* : or you may put out *in quibusdam* and thrust in place thereof *in omnibus*, as you doe in the next page, *In all things pertaining to the People.* Leave these friuolous these false suggestions; your own Conscience cannot but tell you that *reddendo singula singulis*, in some things the Houses of Parliament have power to consent, in some things to order, in some things to act, but in all things they have neither power to act, nor order, nor consent; and that will appear by your next Section.

Observer.

*It is true we find in the Raigne of Edward the third, that the Commons did desire that they might forbear counselling in things, de quorum insuis cognizance the matters in debate were concerning some intestine commotions, the guarding of the Marches of Scotland, and the Seas; and therein they renounce not their right of consent, they only excuse themselves in point of coun-*

*sell, referring it rather to the King and his Councell. How this shall derogate from Parliaments either in point of consent or counsell, I doe not know, for at last they did give both, and the King would not be satisfied without them. And the passage evinces no more but this, that the King was very wise & warlike, & had a very wise Councell of warre, so that in those particulars, the Commons thought them most fit to be consulted, as perhaps the more knowing men.*

*Answer.*

Sect. 16. This is the first time that the Observer is pleased to honour his adverse Party, with the mention of one Objection; and that with so ill successe, that he cannot unty the knot again with all his teeth, I will put it into form for him thus; That which the Parliament in the raigne of *Edward* the third had not, that no succeeding Parliament hath, but that Parliament had no universall cognizance, Therefore the same Rule holds in this and all other Parliaments. The Proposition is infallibly true, grounded upon an undeniable Maxime, that *quod competit tali qua tali, competit omni tali*, that which is true of one Parliament not by accident, but essentially as it is a Parliament, must of necessity be true of every Parliament. The Assumption is as evident, confessed by the Parliament itselfe, who best knew the extent of their own power, that there was somethings of which *ils nount pas cognizance*, they had no cognizance. And if we will believe the Observer, these things which did not belong to their cognizance, were the appeasing some intestine

or Civill Commotions, and the guarding of the Seas and Marches: why, these are the very case now in question concerning the *Militia*. And doth a Parliament here confesse that they have no cognizance of these? yes, what saith the Observer to this? he saith they doe not renounce their right, but onely excuse themselves in point of Counsell; Most absurdly, as if there were either consent or counsell without cognizance. But he saith they did give both consent and counsell, and the King could *not be satisfied without them*. It may be so: but there is a vast difference between giving counsell when the King licenseth, yea and requireth it; and intruding into Counsell without calling: between an approbative consent such as the Saints give to God Almighty, the onely Authoritative Judge of Heaven and Earth; and an active consent, without which the Kings hands should be so tied that he could do just nothing. The former all good Kings doe desire, so farre as the exigence of the service will give way to have their Counsells communicated: But the latter makes a great King a Cipher and transformes an Emperour into a Christmasse Lord. You tell us, that King *had a very wise Councell of warre*, and perhaps more knowing in these things then the Commons. It were strange if they should not be so, if the Commons who are Srangers to the affaires & ingagements of State, should understand them better then those who have served sundry Apprentiships in that way: *qui pauca considerat facile pronunciat*, he that knows not or regards not the circumstances, gives sentence easily, but for the most part is mistaken. Ignorance of the true state of things, begets

*Jealou-*

*Jealousies and Feares* where there are no Dangers, and confidence where the Perill is neareſt: It makes a field of thiſtles an Army of pikes, and an Army of pikes a field of thiſtles. Let old States-Men ſtire at the Helme ſtill, and ſteere the Ship of the Common-wealth. The Commons are the beſt Councell in the World for redreſſing of grievances, for making of new Lawes, for mainteining the publike intereſt of the Kingdome abroad, and private intereſt of the Subject at home; Let this be their Worke and their Honour.

Obſerver.

*Now upon a due comparing of theſe paſſages, with ſome of the Kings late papers, let the world judge whether Parliaments have not been of late much leſſned and injured. The King in one of his late Anſwers alledges that his writs may teach the Lords and Commons the extent of their Commiſſion and Truſt, which is to be Counſellours not Commanders, and that not in all things, but* in quibuſdam arduis, *and the caſe of* Wentworth *is cited, who was by* Queen Elizabeth *committed (ſitting the Parliament) for propoſing that they might adviſe the Queen in ſome things, which ſhe thought beyond their cognizance, although* Wentworth *was then of the Houſe of Commons. And in other places, the King denyes the Aſſembly of the Lords & Commons, to be rightly named a Parliament, or to have any power of any Court, and*

*and consequently to be any thing but a meer Convention of private Men.*

*Many things are here asserted utterly destructive to the Honour, Right and being of Parliaments. For first because the Law hath trusted the King with a Prerogative to discontinue Parliaments &c.*

*Answer.*

Having laid these former grounds, the Observer proceeds to some exceptions, against some passages in his Majestyes Papers, (that's his phrase) as if they were old Almanacks out of date, fit for nothing but to cover Mustard-pots, *metuentia carnina scombros aut thus.* His first exception is, that His Majesty is trusted by the Law, (which the Observer calls now a *formality of Law*, with a *Prerogative to discontinue Parliaments*, leaving no remedy to the People in such a case, which he saith is *destructive to the Honour, Right and being of Parliaments, and may yet be mischievous in the future dissolution of them, and make our Triennial Parliaments of little service, if it be not exploded now.* What is this to the Observers grounds or His Majestyes Declaration? This is rather an exception against the Law it selfe then the King: So the Observer and his pewfellowes deal with Laws and Law-makers; if they make for them, *suscipiunt ut Aquilas*, they admire them as Eagles, if they make against them *despiciunt ut graculos*, they despise them as Dawes, the Fundamentall Constitutions of the Kingdome, must be streight *exploded*, the Law is become a *Formality*. Are you in earnest Sir, that this

*Sect.* 17

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is destructive to Parliaments? you might have said more truely the productive cause of all Parliaments, that ever were in *England*, or of any Assembly that had an Analogy with Parliaments, I tooke you only for a Reformer of some abuses newly crept in: but it is plain, you intend to be another *Licurgus*, to alter the whole frame of Government. Truely Sir you beginne very high, and jumpe over the backs of a great many Generations at once: Doubtlesse you are either very wise, or have a great opinion of your owne Wisdome. But to the point, It is confessed that sometimes some evills doe flow from inconsiderate trust, but many more from needlesse Jealousy. *incommoda non solvunt Regulam*, Inconveniences doe not abrogate a Law. Restraint commonly makes passion more violent. When you have done what you can, there must be a trust either reposed in one or many; and better in one then many. Doe but looke home a little, without trust a Man knows not his owne Father; without trust a man knowes not his own Children. Some trust there must be, and who fitter to be trusted then he that hath the Supremacy of power: unlesse you will make two Supremes. You confesse that Parliaments ought to be used as Phisick, not as constant Diet. And the Law hath now set down a faire terme for the continuance of an ordinary Parliament, unlesse you would be continually in a course of Phisick.

The second exception is, His Majesty declares, that the Parliament hath no universall power to advise in all things, but *in quibusdam arduis*, according to the Writ, and cites the president of *Wentworth*, a Member

Member of the House of Commons, committed by Queen *Elizabeth*, (the Parliament sitting,) for proposing to advise Her, in a matter She thought they had nothing to doe with. The Observer magnifies Queen *Elizabeth*, for Her Goodnesse and Clemency, but withall he addes; *But we must not be presidented in apparent violation of Law by* Queen Elizabeth. A grave Historiographer tells us of a close and dangerous kind of Enemies, *tacitum inimicorum genus*, such as make a mans praises an introduction to their venemous invectives, as if it were not malice but pure love of truth that even forced them to speak so much: such an one is a good Man, but &c. So Queen *Elizabeth* was a good Queen, but in this particular she played the Tyrant. To violate Laws, to violate them apparently, therefore wilfully, to have no respect to the House of Commons (wherein *Wentworth* was a Member,) was no signe of Grace and Clemency. Certainly Queen *Elizabeth* (a wise and mercifull Princesse, one that so much courted Her People) would not have done it, but that She thought She had just grounds: or if She might erre in her judgement, yet She had as wise a Councell as any Prince in *Europe*, and a businesse of this consequence could not be done without their advice, who doubtlesse were some of them Members of the same House, or if both She and they should be mistaken, yet why were the House of Commons themselves silent, whilest such a known Privilege was apparently invaded? why did they not at least in an humble Petition represent this apparent violation of their Libertyes that it might remaine as a memoriall to plead for them to Poste-

rity, that they were not the betrayers of the Rights
Parliaments? She that was so gracious as he Obser
acknowledgeth, and whose goodnesse was so per
and undissembled, could not choose but take it w
and thanke them for it. Neither will it suffice to s
She gained upon them by Courtesy: such an app
rent violation, so prejudiciall to the Highest Cou
of the Kingdome, passed over in the silence, can
as little Courtesy on the one side, as Discretion on th
other. In brief, as I cannot conceive that these word
*in quibusdam arduis*, are so restrictive that the Hous
may consult of nothing but what shall be proposed, o
was intended at the time of the Summons: so on the
other side I doe not see, how either the Commission
or Prescription, doe give them such an universall
Cognizance or Jurisdiction. Queen *Elizabeth* de
clared Herselfe oftner then once in this point; in He
first Parliament (when in reason She should be most
tender) to the Speaker and the Body of the House o
Commons, out of their Loves humbly moving Her to
Marriage, She answered that *She tooke it well, because*
*it was without limitation of Place or Person, if it had*
*been otherwise, She must needs have misliked it, and*
*thought it a great presumption, for those to take upon them*
*to bind and limit, whose duties were to obey.*

The third exception is, the King saith, they must
meerely counsell and not command, (a strange charge
if you marke it) *For it is impossible that the same trust*
*should be irrevocably committed to the King and His*
*Heires for ever, and yet that very trust, and a power above*
*that trust be committed to others.* The Observer answers
first (little to the purpose) *that though there cannot be*

two

*no Supremes yet the King is universis in minor, to set above the collective Body of His Subjects, as we see in all conditionate Princes, such as the Prince of* Orenge &c. His Maxime that the King is *singulis Major, universis Minor* (except the King himselfe be included in the *universi*) hath been shaken in pieces before. The Law is plain, *The Kings Most Royall Majesty of his owne droit & very Right, is very Head, King, Lord and Ruler of this Realm.* And doth he now intend to include the King of *England in his, &c.* among conditionate Princes. Take heed Sir, this will prove a worse &c. then that in the late Canons. Secondly, he answers that though the Kings power be irrevocable, yet it is not universall; the people have reserved to nothing to themselves out of Parliament, and something in Parliament. It were to be wished that he would distinctly set down the particular reservations; a deceitfull Man walkes in Generallityes. Still the Observer dreams of Elective Kingdoms, where the people have made choise either of a Person or a Family. To us it is nothing, they that give nothing can reserve nothing. Trusted and yet reserved? How the Observer joynes Gryphins and Horses together? if trusted how reserved? if reserved how trusted? but how doth the Observer prove either his trust or reservation? nay it is a tacite trust; in good time, so he proves his intention by a Company of dumbe witnesses. In conclusion his proofe is, that it is a part of the Law of Nature. A trimme Law of Nature indeed, which is *Diametrally* opposite to the Law of God and of Nations. The Observer deales in this just as if he had a Kinsman died testate, and he should sue for a part of his

2. 6 Hen. 26.

goods, and neither allege the Will nor Codicill, nor Custome of the Country, but the Law of Nature onely for a Legacy.

Next the Observer raiseth a new Argument out of His Majestyes words, *A temporary Power ought not to be greater then that which is lasting*. This is first to make Draggons and then to kill them; or as Boyes first make bubbles in a shell, and then blow them away without difficulty. The Sinewes and Strength of His Majestyes Argument did lye in the words *to Him and to His Heires*, and not in the word *above*: but if he will put the word *above* to the tryall, if he reduce it into right Form it is *above* his answer. To give a power *above* His Majesty, sufficient to censure His Majesty, to a Body dissolvable at His Majestyes pleasure, is absurd and ridiculous: as if the King should delegate Judges, to examine and sentence the Observers seditious passages in this Treatise, and yet withall give power to the Observer to disjustice them at his pleasure; in such a case he need not much fear the Sentence. The Observer pleads two things in answer to his own shadow. First, that *then the Romans had done unpolitickly, to give greater power to a Temporary Dictator then to the ordinary Consuls*. Secondly, that *it was very prosperous to them sometimes to change the Form of Government, neither alwayes living under circumscribed Consulls nor under uncircumscribed Dictators*. We see what his Teeth water at: he would have His Majesty a circumscribed Consull, and gain an Arbitrary Dictatorian Power to himselfe and some other of his Friends. But in the meane time he forgets himselfe very farre in his History: for first

the

the power of the Dictator and of the Consuls was not consistent together; but the power of the King and the Parliament is consistent. Secondly the change of Government was so farre from being prosperous to the Romans, that every change brought that State even to Deaths doore. To instance onely in the expulsion of their Kings as most to the purpose: How neer was that Citty to utter Ruine, which owes its subsistence to the valour of a single Man, *Horatius Cocles*: if he had not after an incredible manner held a whole Army play upon a Bridge, they had payed for their newfangledneſſe, with the sacking of their Citty. Thirdly, the chooſing of a Dictator was not a change of their Government, but a branch of it, a piece reserved for extremeſt perills, their last Anchor and Refuge either against Forrein Enemyes, or the Domeſtick Seditions of the *Patricii* and *Plebei*: and is so farr from yeelding an Argument against Kings, that in the judgement of that Politick Nation, it shewes the advantage of Monarchy above all other Formes of Government.

The Obſerver still continues His Majeſtyes Objection, To make the Parliament more then Counſellers, is to make them His Commanders and Controllers. To which he answers, *To consent is more then to counsell, and yet not always so much as to command, for in inferiour Courts, the Judges are so Counsellours for the King, that he may not countermand their judgement, yet it were a harsh thing to say that therefore they are His Controllers, much more in Parliament, where the Lords and Commons represent the whole Kingdome.* If there were no other Arguments to prove the Superiority

rity of Parliament above the other Courts then this that it represents the Kingdome as they doe the King; it would get little advantage by it. *To consent is more then to counsell, and yet not alwayes so much as to command.* True, *not alwayes*: but to counsell so as the party counselled hath no Liberty left of dissenting, is alwayes either as much as to command or more: a man may command and goe without; but here is one to advise, and yet they must not goe without. What stirre is here about consent? If he understand consent in no other notion then Laws and lawfull Customes doe allow; it is readily yeelded, but makes nothing to his purpose. One said of *Aristotle*, that he writ waking, but *Plato* dreaming. The one had his eyes open and considered Men as they were indeed, the other as he would have them to be: but if ever Man writt dreaming, it was this Observer; his notes may serve rather for the Meridian of new *England* then old *England*, and of *Eutopia* rather then them both. He calls the Judges the Kings Counsellers, as if they were not also his Delegates, Deputies, and Commissioners, what they doe is in His name and His Act: yet if they swerve from justice, he may grant a review and call them to account for any misdemeanour by them committed, in the excercise of their places; and this either in Parliament or out of Parliament. But the inference hence, That because the Parliament may take an account of what is done by His Majesty in His inferiour Courts, therefore much more of what is done by him without the Authority of any Court, seemes very weake. It is one thing to take an account of Himselfe, another to take an account of

His Commissioners, His Majesty hath communicated a part of his judiciary power to his Judges, but not the Flower of his Crown, nor his intire prerogative, whereof this is a principall part, to be free from all account in point of Justice, except to God and His own Conscience.

The last exception is, That the King makes the Parliament without his consent, *A divers convention without all vigour and power, saving that the very name of Parliament is not under them.* Which *Allegation* (saith the Observer) *at one blow confounds all Parliaments, and subjects us to as unbounded a Regiment of the Kings meere will, as any Nation under Heaven ever suffered under. For by the same Reason that the Kings dissention of them makes Parliaments virtueless and void Courts, He may make other Courts voide likewise.* Here is a great cry for a little Wooll: if he proves not what he aimes at, yet one thing he proves sufficiently, that himself is one of the greatest Calumniators in the World, in such grosse manner to slander the Footsteps of Gods Ancoured, *Agnosas primogenitum Sathanæ.* Where did ever the King say that Parliaments without his presence are virtueless and void Courts? but he denieth them the name of Parliaments, which is all one, yea if a Goose and a Feather be all one. The name Parliament with us signifies most properly, the Party of the King and his People, in a secondary sense it signifies a Party of the Subjects among themselves, neither of these virtueless, but the one more rigorous then the other. So the Body is sometimes contradistinguished to the Soule, and includes both Head and Members, sometimes

times it is contradistinguished to the Head, and in-
cludes the Members onely. It is one thing to be a
True Parliament, and another to be a Com-
plete Parliament, Complete to all intents and
purposes, and particularly in respect of the Legisla-
tive power. In this latter sense onely His Majesty
denyes it, and in this sence the Observer dares not af-
firme it. To dispute about the name is a meere Lo-
gomachy, and from the name to inferre this height of
Power is a trifling *Homonomy*. But the Observer will
either be *Cæsar* or no body; either all power or
no power: just like a little Child who if he
wants some one thing he desires, throwes away all he
hath and falls a crying. To his fear of his Majesties
deserting his other Courts; he may as well fear his
deserting of himselfe. This may goe amongst the
rest of his improbable possibilities, which never were,
never will be deduced into Act. If he will admit no
institution which is subject to any abuse, he must
seeke for presidents in the new World of the Moone.

Here he takes occasion to declaime against our
new Masters of Division, whose Founder is *Ma-
chiavell*, their rule *divide & impera*, their first cre-
ation was since *the third of November* 1640. His
Majesty is the Principall of the College *whose papers*
(saith the Observer) *are freighted scarce with any thing
else but such Doctrine of Division, tending to the sub-
version of our Fundamentall Constitutions, yet find such
applause in the World.* His plea against them consists
of a fourefold charge; first, they have divided between
the King and the Parliament. Secondly betwixt the
Parliament and the Kingdom withdrawing themselves
from their representatives, *Yet there is nothing under*

*Heaven*

Reason (if we may trust him) *next to the removing of God, can be more perswasive and more pernicious to the people then this?* Thirdly, by dividing between the Parliament and a part of the Parliament. And fowerthly, in the Major part between a Faction misleading and a party misled. Who reads this and would not take the Observer for another *Caleb* or *Constantine* for peacemaking, whereas in truth all this is but a personated passage of *Demetrius*, or one of his craftsmen, railing against the Towne Clarke of *Ephesus*, as a Ringleader of Division, and a Disturber of them in their service to *Diana*, the Idoll of their own braines, and an Hinderer of them in doing Gods owne Worke; that is, shedding the blood of the ungodly Apostles, and is done with the very same grace that *Shimei* cryed out *Treason, Treason.*

*Sic oculos, sic illa manus, sic ora ferebat.*

He is ever snarling at His Majestyes Papers, and and I do not much blame him: for where these *Papers* have had free passage, they have sweyed down the scale of mens judgements with the weight of unanswerable reason, that this Observer and all his Fellowes may compare their notes, and put their hands and heads and shoulders and all together, and never be able to lift it up againe to an *aequilibrium*. If they could have purchased every *paper* of them at the same price that the Romanes gave for the *Sybills* Bookes, it would have been well bestowed for their cause, to have them suppressed. I plead not for Masters of Division, Gods abhomination, the Devills Factors, the

baine of the Common-wealth; *Da unum & habebis populum, tolle unum & habebis turbam.* It was not *Philip*, but the dissentions of *Athens, Thebes, Sparta*, that destroyed *Greece*. It was not *Scipio*, but the Factions of *Hannibal* and *Hanno* that destroyed *Carthage*: we have had too many such Masters of Division indeed. Our Schismes in the Church proclaime it, the question is not now of round or square, or black or white, or sitting or kneeling: our burying and marrying, our christening, our communicating are all questioned; our Churches, our holy Orders, our publick Liturgy, the Lords Prayer, the Creed, our Scriptures, the Godhead of Christ, the doctrin of the Trinity, all our Fundamentalls are questioned. It is not twins but litters of Hereticks that struggle in the wombe of the Church; Disciplinarians, Independents, Brownists, Anabaptists, Familists, Socinians, &c.

*——— pudet hæc opprobria nobis,*
*Et dici potuisse, & non potuisse refelli.*

Our Sedition in the State proclaimes it, whilest some are for the King, some for the Parliament, some for the Law, some for Arbitrary Government, some for a Monarchy, some for Democracy. The Superiority of the King or Parliament is questioned, the Kings negative voice is questioned, the right of the *Militia* is questioned, the privileges of Parliament, the liberty of the Subject, every thing is questioned. Thus to use the Observers words, *Those rocky Foundations are razed, upon which this State hath been so happily setled, for so many ages now past. The Pillars of Law and Policy* (and Religion,) *are taken away, and the State* (and Church)

set

set upon a new Basis: each day produceth new opinions, new presidents, new questions; and woe be to those Men who are not onely occasionally, but intentionally the Authors of these Divisions; They are guilty before God of all that blood which is powred out like water upon the face of the Earth, of all that Spoyle which is committed: better were it for them that a Millstone were hanged about their necks, and they cast into the bottome of the Sea. How deep the Observers share is herein, I leave it to his own Conscience. This is certaine, a Man may keep his Possession by Force, but he that shall goe about to thrust another out of his lawfull Possession, is the true Author of the tumult, and whatsoever he suffers, he can blame no man but himselfe.

Now to your foure Charges. First, who divided the King and Parliament. There may be a quære of others, but it is beyond all question that those base tumults and disorders at *Westminster* and upon the *Thames* tending to the danger of His Majestyes Person, but much more as they were unsufferable affronts to Sacred Majesty, and all those who are accessary to them, as Contrivers, Fomenters, or Connivers, are the principall grounds of this cursed Division: they that make two Supremes coordinate one with another, make a division with a witnesse. Next, for your seperation between the Parliament and the Kingdome. First your mouth runnes over extremely when you call it the most pernicious thing that can be, next to the renouncing God: we have stricter obligations to others then to our Proctors. Secondly, to regulate their trust, according to their first inten-

tions and former Presidents, is not to withdraw re-presentation; if it were who taught it them, but those who first practised the same to their King? But that you may clearly discern who are the Authours of this seperation, heare a neare Friend of yours in his *plain English* or rather plaine Sedition, thus he, *If ever the Parliament should agree to the making up of an unsafe unsatisfying Accomodation, this will beget a new question, whether in case the representative Body can not or will not discharge their trust, to the satisfaction not of fancy, but of reason in the People, they may resume it ever yet they parted with a power to their manifest undoing, and use their power so far as conduceth to their safety?* You see the high ad ultimate Judicature is neither now the Kings, nor the Parliaments. Your third division is between the Parliament and a part of it. Of this charge they are guilty who made the distinction, of good and bad Lords, of well affected and ill affected Members. The votes of Absentees doubtlesse by the Law of Nations devolve to those that are present: but if the place of the Assembly be not free, if the absence be necessitated by unjust force or just fear, the case is otherwise. Your fourth division is between the Major part misled, and a Faction in the major part misleading. I wonder you should thinke this so impossible. Neere instances may be dangerous; let us looke upon the great Councell of *Ariminum*, the question was of no lesse consequence then the Diety of Christ, the Major part of the Councell voted for the Arrians, and in the major part the misleading Faction were but few, the well meaning party were farre the more, but misled by

he subtle manner of proposing the question, whether they would have Christ or *Homoousios* ? which either being discussed, nor understood as it ought to have been, they voted wrong and repented at leisure.

In the last place you distinguish between deserting and being deserted, *If the wife leave her Husband and become an Adulteresse* the good reason she lose her dowry; *but if her Husband causelessly reject her, it is injustice she should suffer any detriment.* Your case is true as you propose it; but suppose the Adulteresse should stay at home and outbrave her Husband, or by her power in the Family thrust him good Man out of doores; I suppose she should refuse to cohabite with him, except she may be Master and do what she will without controllment, and forget her Matrimoniall Vow of Obedience. This alters the case.

**Observer.**

*Now of that Right, which the Parliament may doe the King by Counsell; if the King could be more wisely or faithfully advised by any other Court, or if his single judgement were to be preferred before all advise whatsoever, it were not onely vaine, but extreamly inconvenient, that the whole Kingdom should be troubled to make elections, and that the Parties elected should attend the publick businesse.*

**Answer**

*Answer.*

Sect. 18. We have had both Counsell and Consent before, but now we must have them again. The questions raised by the Observer are of such an odious nature that no good Subject can take delight in them, whose duty is to pray for the like concent among the several orders of this Kingdome, that is supposed to be among the severall orbes of Heaven. His Majesty is undoubtedly the *primum mobile*, (whatsoever the Observer in sundry parts of this Treatise pretends to the contrary,) The two Houses of Parliament, the great and privy Councell are the lower Spheres, which by their transverse yet vincible motions ought to allay the violence of the highest Orbe for the good and preservation of the universe. Where there are not such helps and means of temper and moderation, there Liberty is in danger to be often trodden under Foot by Tyranny. And where these adjuments by the unskilfulnesse or sinister ends of some young or ambitious *Phaetons* become impediments, by a stiffe froward and unseasonable opposition, in stead of a gentle vincible reluctation, it sets the whole body Politick in a miserable combustion, as dayly experience shews. But I must trace the Observer. The calling of Parliaments is not *vaine and inconvenient*, but his inference is vain and inconsequent; there are other ends of Parliaments besides Counsell, as consenting to new Laws, furnishing the publick with Money, (the nerves and sinews of great actions,) mainteining the interest of the Kingdome, and liberty of the

Subject

ubject. From removing one foe all end to inferre hat an action is superfluous, deserves no answer but ilence and contempt.

Secondly, even in point of advise, there is more re- uired in a good Counseller then naturall wisdome nd fidelity; our fancyes are not determined by na- ure to every thing that is fit for us, as in Birds and easts: but we must serve apprentiship to learne us to erve one another. There is a thing called experience, or igh concernment in the managery of publick affaires. He that will steere one Kingdome right, must know he right constitution of all others; their strength, their ffections, their counsels and resolutions, that upon ach different face of the skye, he may alter his rud- er. The best Governments have more Councells hen one, one for the publick interest of the King- ome, another for the affaires of State: a Councell or Warre, and a Councell for Peace: and it were strange if it were not as requisite to have a Councell for the Church. Every Man deserves trust in his own Profession: many are fittest for resolving, few for ma- naging. The exigence of things require, sometimes se- crecy, sometime speed. We see the House of Com- mons, though they be but deputed by the People (and a Delegate cannot make a delegate, where their right is in confidence rather then in interest) yet they have their Committees and a Councell in a Counsell. Neither are all Parliaments of the same temper, if we may believe Sir *Henry Worton* (one that was no Foole,) thus he, *in the eighteenth of King* James, *ma- ny young ones being chosen into the House of Commons, more then had been usuall in great Councells (who though*

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*of the weakest wings, are the highest flyers,) there was a certain unfortunate unfruitfull Spirit in some places not sowing but picking at every stone in the field rather then tending to the generall harvest.*

Thirdly, let them be as wise and as faithfull Councellers as the Observer pleaseth, onely let them be but Councellers. Let their conclusions have as much credit as the premises deserve; and if they can necessitate the Prince to assent by weight of reason, and convincing evidence of expedience, let them doe it on Gods name, *necesse est ut lancem in libra ponderibus impositis deprimi, sic animum perspicuis cedere*: But I hope they will never dare to doe it out of the authority of their votes, or obtrude a conclusion on His Majesty, before he understand how it is grounded upon the Premises. This seemes to be the same which the Disciplinarians would impose upon the King in the Government of the Church, to be the Executor of their decrees, His Respect to their judgement ought to make him tender in denying, but inferres no necessity of granting.

Fourthly, I wonder the Observer is not ashamed to tell of His Majestyes preferring his single judgement before all advise whatsoever, when the Observer chargeth him with following the advice of his Cabinet Councell, when he hath his Privy Councell with him, when in the great Councell, if they might meet freely, he believes that two third parts approve of his doings. Are the most part of the Nobility and Gentry of this Kingdome, no Body? Are the flower of the Clergy and Universities, no Body? are so many grave

and

Solid Lawyers, no Body? So many of the Loyall Commons, no Body? Sir, you doe see, and you will see dayly more, That His Majesty is not single in His Course.

Lastly, It is the part of good Counsellers, to present their whole advise together, what they desire to remove, and what they desire to introduce; as well what they desire to build up, as what they desire to pull down. So the Observer himselfe pleadeth in another case, *Before we demolish old structures, we ought to be advised of the fashion of new.* His Majesty hath required one intire full view of their demands, that He might judge more perfectly what to assent to, and what to advise further upon. This is a sure way not to be over-reached, not to cut down an old Tree, before there be a new one ready to be planted in its place: many Men will agree in the destructive, which will never agree in the constructive part. The old Senators first of *Capua* and after of *Florence*, found this to be true by experience; the People did not agree so well in taking them away, but they disagreed ten times as much in the choise of new: and they that were voted down whilest they looked upon them positively, were voted to stand when they looked upon them comparatively, they were not so worthy as they desired, but much more worthy then those that should be subintroduced. To instance in the case of the Church, there are many Schismaticall Factions at this day, never an one of these can have their own ends, except the present government be taken away; so farre they agree: yet if it should be taken away, not one of six should have his own ends; here of ne-

*First obser vat. pag.*



cessity

ceſſity they muſt fall in pieces, and in probability will cry out with the *Capuans* and the *Florentines*, *The old is the better of the two.* If every Mans ſingle ſuffrage were aſcertained to his proper object, as it is in the election of our Knights and Burgeſſes, we ſhould ſoone ſee who would have moſt voices: and perhaps the old (in a free meeting) might have more then all the new put together.

**Obſerver.**

*But little need to be ſaid, I thinke every mans heart tells him, that in publick Conſultations, the many eyes of ſo many choiſe Gentlemen of all parts ſee more then fewer.*

*Anſwer.*

Pag. 19. 'Tis not ſufficient for an adviſer to ſee, unleſſe he can let another ſee by the light of Reaſon. A Man ought not implicitly to ground his actions upon the authority of other Mens eyes, whether many or few; but of his own. *Many ſee more then few;* True *ceteris paribus* if all things be alike. Or otherwiſe one Phiſitian may ſee more into the ſtate of a Mans Body then many Empericks; one experienced Commander may know more in Military Affaires, then ten Freſh-water Souldiers; and one old States-Man in his own Element is worth many new Practitioners, one Man upon an Hill may ſee more then an hundred in a Valley. But yet if all things be alike, you will ſay *many eyes ſee more then one.* They doe ſo commonly, but not al-



wayes

wayes: one *Paphnutius* did see more in the Councell of *Nice*, then many greater Clerks. How often have you seen one or two Men in the Parliament change the Votes of the House? certainly the Eyes of so many choise Gentlemen see the Grievances of the Kingdome, better then any other Councell; That is their proper object.

Observer.

*And the great interest the Parliament has in common Justice and tranquillity, and the few private ends they can have to deprave them, must needs render their Counsell more faithfull, impartiall, and religious then any other.*

*Answer.*

The interest is the Kingdoms and each Subjects; To be Parliament Men adds to their trust not to their interest. The Observers grounds are presumptuous, and tend onely to beget an implicit confidence: what Mens private ends are, is not known to us but to God above. This we know, that good ends cannot justifie bad meanes, nor bad actions. Men may have good ends, and yet be led hoodwinked by others whose ends are worse: and private ends will steal upon well affected Men. Discontent works strongly upon some, vain glory upon others; Delinquents may aime at their own impunity, and timorous Persons at private Security. But this is to be left to God that is the searcher of hearts. *Sect. 2.*

Obſever.

*That diſlike which the Court has ever conceived againſt Parliaments, without diſpute is a pregnant prooſe of the integrity and ſalubrity of publick adviſe, and is no diſparagement thereof, for we have ever found Enmity and Antipathy betwixt the Court and the Country.*

*Anſwer.*

pt. 21. If you make a ſtrict ſurvey of the Parliaments party, I believe you will find as many Courtiers as Countrymen (proportion for proportion). To ſee the Revenues of the Crown be not diminiſhed by needleſſe profuſion, to ſee His Majeſty be not prejudiced in the accounts of his Officers, To take away Monopolyes, and the like, are the proper Workes of Parliaments, and in probability cannot be ſo pleaſing to ſome Courtiers: but this is farre from a fancyed Omnipotence. Here he falls into his old Complaint of the Peoples not adhering to the Parliament, but we have had this Diſh oft enough upon the Table.

*Obſerver.*

*The King ſayes*, Tis improbable and impoſſible that His Cabinet Counſellers, or His Biſhops, or Souldiers, who muſt have ſo great a ſhare in the miſery, ſhould take ſuch paines in the procuring thereof,

and

and spend so much time, and run so many hazards, to make themselves Slaves and to ruine the Freedome of this Nation. *How strange is this? we have had almost forty yeares experience that the Courtway of preferment, has been by doing publick ill offices, and we can nominate what Dukes, what Earles, what Lords, what Knights, have been made great and rich by base disservices to the State, and except Master* Hollis *his rich Widdow, I never heard that promotion came to any man by serving in Parliament: but I have heard of trouble and imprisonment: but now see the traverse of Fortune; the Court is now turned honest, and there is no fear now but that a few Hipocrites in Parliament will beguile the Major part.* And pag. 23. *The whole Kingdome is not to be mastered against consent by the traine Bands, nor the Traine Bands by the Lords or Deputy Lieutenants, nor they by the Major part in Parliament, nor the Major part in Parliament by I know not what Septemvirat. There is some mistery in this which seemes yet above, if not contrary to nature, but since the King hath promised to open it, we will suspend our opinion and expect it as the finall issue of all our disputes.* And pag. 22. *we are now at last fallen upon an issue fit to put an end to all other invectives whatsoever, let us stick close to it. The King promiseth very shortly a full and satisfactory narration of those few Persons in Parliament, whose designe is and alwayes was to alter the whole frame of Government both in Church and State, and subject both King and People to their own Arbitrary power and Government; a little of this Logick is better then a great deale of Rethorick as the case now stands. If the King will please now to publish the*

*particular Crimes of ſuch as he hath formerly impeached of Treaſon, and the particular names of ſuch as now he ſets forth in thoſe characters, & will therein referre himſelfe to the ſtrength of his prooſes, and evidences of his matter, it is impoſſible that any jealouſie can cloud his integrity, or check his power any longer.* Et eadem pagina. *By the performance of this promiſe, he ſhall not onely do right to himſelfe but alſo to the whole Kingdom, for the diſtracted Multitude being at laſt by this meanes undeceived, ſhall proſtrate themſelves and all their power preſently at his feete.*

*Anſwer.*

7. 22 There is no dealing with the Obſerver without a Notary publick and good ſtore of Witneſſes. *The King ſayes*, So he: *the Contrivers of the Declaration ſay*, ſo the King. It is nothing to miſtake an objection for a poſition? but it is ſomething more to thruſt in *Cabinet Counſellers, Biſhops and Souldiers*; though I ſuppoſe never an one of theſe will love their Profeſſion the worſe for a daſh of his Tongue or Pen. Are there none for the King but thoſe whom he terms in diſgrace *Cabinet Councellers Biſhops & Souldiers*? he will find many as eminent for piety, virtue, wiſdome, Courage, Nobility, Eſtate, as our *Britiſh* World affords, ſuch as want no Titles, no meanes that the condition of a Subject is capible of: or if they did, need not make uſe of ſuch oyly wayes to ſlippe into preferment. Admit ſome few have raiſed themſelves by ſiniſter courſe, what are they in compariſon of ſuch a cloud of worthies, but as the gleanings to the vintage?

*Appa-*

*Apparent rari nantes in gurgite vasto.*

He saith he can name Dukes, and Earles, and Lords, and Knights; if he can, let him look where he finds them now; they that can serve the time dextrously, will apply themselves to one as well as another. I am not so wilfully blind as not to see that some have ingratiated themselves by dissembled goodnesse, or by such services as are not warrantable by Law, though then they were justified by the Professors of the Law: much lesse am I so childishly credulous, to believe all those hideous Lyes, which Envy or Selfe love hath cast upon Favorites or publick Ministers of State. Now to let us see how he can shoot short as well as over, he tells us that he *never heard that promotion came to any Man by serving in Parliament.* If he did not, it is because he hath stopped his ears & hoodwinked his eyes when he looked that way: otherwise he might have seen both in this Parliament and former Parliaments within forty yeares, honours offices and estates gained either by service in Parliament, or disservice, or both; though I doe not love to particularise as the Observer doth. Some Mens advancements doe shew it is a good way to get preferment, to put the King to a necessity of granting. Good Woodmen say that some have used Dear-sticking as an introduction to a Keepers place, and I have seen a Non-Conformists mouth stopped with a good benefice, as if he did but shew them before that if he were not satisfied *he could gape as wide as his Neighbours.*

Next

Next, he makes it neare a prodigy, *a miſtery above if not contrary to Nature*, that a few Hipocrites ſhould beguile the Parliament, or the Major part be maſtered by a *Septemvirate*. I will not argue with the Obſerver *utrum ſit* whether it be ſo; my Reverence to the great Councell of the Kingdome pulls me by the eare: but *utrum poſſit* whether it may be ſo. Then for the preſent we will change the Scene to *Greece* or *Italy*. And I wonder why the Obſerver ſhould think it ſo ſtrange that few ſhould have an influence upon many, or that affections & paſſions, love, hatred, fear, hope, grief, &c. ſhould betray Mens judgements. Let him peruſe all Hiſtoryes, and take a view of all Free States and Senates, as *Rome*, *Areopagus*, *Delphos* &c. Conſular, Tribunitian, Pretorian, &c. of all kinds: and he ſhall find ſiding and faction and picking and conniving and an implicit dependence of many Followers upon few Leaders. He may be pleaſed to remember the bragge of an *Athenian* boy, that his Father ruled all *Athens*, his Mother ruled his Father, and he ruled his Mother. There are many Dames in the World that would thinke much not to have as great an influence either upon their Husbands or the State, as Madam *Themiſtocles* had. Even ſay Sir, doe you thinke that private quarrells and the memory of former ſufferings did never worke upon any Man? That diſcontent and envy at other Mens preferment, (whom they conceived to be leſſe deſerving then themſelves) did never tranſport ſome others further then the bias of judgement did draw them? That fear of the laſt and a deſire to ſecure themſelves, hath never forced

any men to personate a part from the teeth outwards? That great Offices and Honours have never been a pearle in any Mens eyes to hinder their sight (though like Lapwings they made least noise when they were neareſt their nests?) That others have never been like organ pipes to whom the wind of popular applause hath onely given a sound? Is it never possible for a party who have premeditated their parts, and before their designe be discovered, to exclude or vote out those whom they conceive to be their oppositeſ, upon some pretences or others, (suppose of an unlawfull election, or being Monopolists or the like?) I say nothing of the bewitching power of Oratory, nor of that sheepish Humour of following the Drove, nor of the vehement impression that fancyed dangers make in some men, as of him that died in an innocent Bath, when the Bystanders onely told him, that his hearts blood was comming out now. But you may say these will never hold on to the journyes end: Though we often see that when Men are too farr ingaged, have passed the Waters of *Rubicon* and cannot retire with safety, they grow desperate and run head long upon the mouth of the Cannon: yet considering the gracious disposition of our Dread Soveraigne, whose joy it is as it was his Saviours to find the sheep that was lost, I doe verily believe they will not hold on to the last indeed; why should they lose themselves to be laught at for their labours by them that had other ends then they? But yet till this departure be, they make one body visibly. When the Body naturall is infested with contrary distempers, that which is

used as a good cure for the one, may be poyson to the other: So in the Body Politick, they who are aptly chosen for the remedy of one Grievance, suppose the violation of Liberty, may be most unfit and never would have been chosen for the settlement of Religion. In summe, the Observers Argument may be thus paralelled, It is not discernable how the whole City and State of *Athens* could be mastered by a *Militia* consisting but of three thousand, or those three thousand by the Major part of thirty Tyrants, or the Major part of thirty by *Critias* and one or two more: Or thus, It is not discernable, how the World should be mastered by *Italy*, or *Italy* by *Rome*, or *Rome* by I know not what *Triumvirate*. A very poor *Mercury* may *reconcile the Observers understanding in this*, if he be pleased. A trayned Band of eighty or an hundred thousand fighting men, well armed, well exercised, are able to master a greater Kingdom then *England*; Armyes are not so soone raised, armed, disciplined; he that is ready for the Field may easily suppresse another, upon his first motion, or but offering to stirre. It is as easy to conceive how the traine Bands may be at the disposition of their Commanders, who pay them, reward them, punish them: and it is certain that they who have the naming of them will chuse such as they may confide in. The Observer talkes much of Nature, what Arms hath Nature given but teeth and nailes? these will doe little service at push of pike or against a volly of muskets.

This brings us to the issue which is propounded by the Observer, and is accepted by His Majesty, *which*

*may*

*may put an end to all other invectives*: God grant it may prove true, we see no signes of it yet. The Observer saith, *Let us stick close to it*; and I say, he that starts from it, let him be reputed guilty of all the innocent blood that is shed. He addes, *which will bring the distracted multitude to prostrate themselves at His Majesties Feet.* Alas the countenance is not alwayes to be credited, but speech is the Arch-Deceiver. If this be not a vaine flourish, an empty fiery offer, but meant in good earnest, there is hope we may be happy. His Majesty hath satisfied this demand long since, by His Declaration of the 12. of *August* 1642. and yet we find not these fruits here promised with so much confidence; He hath named the partyes, He hath specified the crimes. Take the accusation in his owne words, 1. *Of entring into a solemne Combination for altering of the Government of Church and State*, 2. *Of designing Offices to themselves and other Men*, 3. *Of soliciting and drawing down the Tumults to* Westminster, 4. *Of bidding the people in the height of their rage and fury goe to* Whitehall, 5. *Of their scornfull and odious mention of His Majesties Person*, 6. *Of a designe to get the Prince into their hands*, 7. *Of treating with Forreine Power to assist them.* He is willing also to referre himselfe to the strength of his proofes, and evidence of the matter, which is all the Observer desires. Heare Him for that also, *we desire that the L.K. M.H. M.P. M.H.* Sir *A.H. M.St. M.M.* Sir *H.L. A.P. and C.V. may be deliverd into the hands of Justice, to be tryed by their Peers, according to the known Law of the Land. If we doe not prove them guilty of*

*High Treason, they will be acquitted and their inno-*
*cence will justly triumph over Vs.* Now if they desire
to shew themselves great Patriots and Lovers of their
Country indeed, here is a faire opportunity offered,
if they have as much courage as *Codrus* had to leap
into the gaping gulfe of Division, and to reduce the
Kingdom to its former continuity and unity, if they
dare trust to the touchstone of Justice, and if the bird
in their brest sing sweetly to them that they are in-
nocent: here is a course provided whereby they may
vindicate their good names, and out of the feined
reports of malignant Sycophants make themselves a
triumphant Garland or Crown of lasting Honour.
But we see no hast, I know not mens hearts. There is an
unhappy story in *Plutarch*, (but I dare not apply it,) of
*Pericles* a Stickler in the *Athenian* Commonwealth,
who being busy and private in his study to make his
account to the State, was advised by his Nephew
*Alcibiades* (it was pestilent Counsell) rather to stu-
dy how to make no accounts: which he did effect by
ingaging the Commonwealth in a Warre, so as they
had no leisure to call for his accounts after that. There
can be nothing pleaded in barre to the performance
of this Proposition, but the privilege of Parliament.
A great plea indeed; so the Observer, *That none of*
*the Meusbers of the Parliament may be apprehended in*
*case of suspition, where no information or Witnesses ap-*
*pear to make good the prosecution, without acquainting*
*the Parliament, if leave may be conveniently obteined.*
He addes that *by the same Act the whole House might*
*have been surprised.* And in another place, that by
this meanes, *the meere imputation of Treason shall sweep*
*away*

*away a whole Parliament.* And his reason is thus grounded, That if way be given to this, so many Members of either House may be taken away at any time, upon groundlesse pretences, as may make a Major part of whom they will: And then farewell to the Freedome of Parliaments. Which truely seemes to be urged with great shew of equity, where the partyes are taken away by dozens or greater numbers, and the tryall is long deferred to serve a turne. You shall find the same Argument used & pressed after the same manner by *Steven Gardiner* to the Parliament, alleging that nothing could be *of worse Example* then to *allow such a president*, that by that meanes *it shall be at the pleasure of him that ruleth to doe the same in more.* But for all that we doe not find that either the Parliament did afford him relief, or were sensible of any such danger: doubtlesse it stands both with naturall equity & the known Law of the Land, that they who have the honour to be the great Councell of the King & Kingdome, should have all such Privileges & immunityes as are conducible to the furtherance of those ends for which they are convocated; such are free accesse and recesse, to be exempted from attendence upon Inferiour Courts, so long as they are in that imployment, To have their Servants free from arrests, that whilest themselves are busy about the great Affaires of the Common-wealth, their Estates and occasions may not suffer in their absence, and that universall privilege of all Councellers, that whilest their intentions are reall, they should not be questioned for a slippe of the tongue, or a mistake in their judgements. We see ordinary Courts doe not onely protect their Ministers of Justice in the excercise of

Anno 15

their

their places; but even those Witnesses which a
summoned to appeare before them. A Clerke o
the Chancery cannot be called to any other Cou
to answer in any Cause that is cognuscible in tha
Court.

But here are sundry things considerable, as firs
that His Majesty is the true fountain of these Pri
vileges, not any mutuall compacts. This is plaine by
that petition, which Sir *Thomas Moore* (then Spea
ker for the House of Commons) made in his Ora
tion to King *Henry* the eight, which I thinke hath
been observed by all Speakers that ever were since,
*That if in communication, or reasoning, any Man in the
Commons House should speake more largely then of du
ty they ought to doe, that all such offences should be
pardoned.*

Secondly, these Privileges ought not to be destru
ctive to the essence or Fundamentall Ends or right
Constitution of Parliaments: and such a Privilege is
that the Observer claimes, *to be denyed nothing*. For
whereas our Parliament is so sweetly tempered and
composed of all estates, to secure this Nation from
the evills which are incident to all Formes of Go
vernment: he that shall quite take His Majestyes ne
gative voice away secures us from Tyranny, but leaves
us open and starke naked to all those popular evill
or Epidemicall diseases which flow from *Ochlocracy*;
as Tumults, Seditions, Civill Warres, and that
*Ilias* of Evills which attends them; and seemes to re
duce the King (be it spoken with reverence) to the
easse of the old Woman in the Epigrammatist, when
she had coughed out her two last teeth,

Jam

*Jam libere possis totis tussire diebus,*
*Nil isthic quod agat tertia tussis habet.*

From hence appeares a ready answer to that question so often moved, *what great virtue is in the Kings single vote to avert evills from us, that an ordinance of both Houses may not be binding to the whole Kingdom without His consent* ? The case is plain, it is of no great virtue against the evills of Tyranny, but is a Soveraigne Remedy against the greater Mischiefes which flow from *Ochlocracy* ; and I trust God will ever preserve it to us.

Thirdly, these Privileges must not transcend the condition or capacity of Subjects by making destructive reservations, or so as to deck the Temples of inferiour Persons with the flowers of the Crowne. Such a Privilege seemes this to be which the Observer here claimes, a Dictatorian Immunity from all question, to owe no account but to God and their own Consciences: and yet by this new Learning they may take an account of the King. What is this but to make Kings of Subjects and Subjects of Kings? When some Ancients more skilfull in *Theology* then in *Philosophy* or *Geography*, did heare of the *Antipodes*, they reasoned against it (as they thought) strongly, that then there were *pensiles homines* and *pensiles arbores*, men that did goe with their heads downwards, and Trees that did grow with their tops downwards; they forgot that Heaven is still above, and the Center below : but what they did but imagine the Observer really laboureth to introduce, to make whole

King-

Kingdomes to walke with their Heads downwards and their heeles upwards.

Fourthly, the just measure or standard, whereby all Privileges ought to be examined and tryed, is not now the Law of Nature, which is applyable (though not equally) to all Formes of Government; this were to put the shoe of *Hercules* upon an Infants foote. The Law of Nature may be limited, though not contraried by the known Laws and Customs of this Realme, as they shall appear by Charters, Statutes, Presidents, Rolls, Records, Witnesses. His Majesty cites a confession of the Parliament it selfe, to prove that their Privileges extend not to the cases *of Treason, Felony, or breach of Peace*, which heretofore hath been the common beliefe of all Men. And it seemes no satisfactory Answer to say, that therefore they extend not to these Cases because the Houses do usually give way in these cases for them to come to tryall, either in Parliament if it be proper, or otherwise in other Courts. For it is a great doubt how a Commoner in case of Treason can be tryed in Parliament *per pares* by his Peeres: and if it be in their own power to give way or not to give way, the Privilege extends to these cases as well as others. The case being thus, why doe we quarrell one with another? why doe not we all repair to the common Standard (that is the Law of the Land,) and crave the resolution or information of those that are Professors in that study? This will determine the doubt without partiality or blood, and he that refuseth it, let him be accounted as one that desires not to uphold but subvert the Fundamentall Laws of the Land, upon

a ſuppoſition of Feares and ſuch caſes as never happened in the World. Now it appeares how the former objection is not applicable to the caſe in queſtion, where the Partyes are Commoners and ought to be tryed by their Peers; where His Sacred Majeſty is the Informer; where the crimes are ſpecified; where a ſpeedy tryall according to the known Law is deſired: where the Partyes themſelves out of a love to their Country, out of a care to prevent the effuſion of Chriſtian and of Engliſh blood, out of a deſire to vindicate their own reputations, ſhould themſelves become Suiters for a lawfull hearing, that they might not *ſtill ſuffer under ſuch a heavy charge*: at which tryall they may legally plead the Privilege of Parliament, if there be any ſuch Lawfull Privilege.

Obſerver.

*But let us conſider the Lords and Commons as meer Counſellers, without any power or right of counſailing or conſenting, yet we ſhall ſee if they be not leſſe knowing and faithfull then other Men, they ought not to be deſerted, unleſſe we will allow that the King may chooſe whether he will admit of any Counſell at all or no, in the diſpoſing of our Lives, Lands, and Libertyes. But the King ſayes, that* He is not bound to renounce His owne underſtanding, or to contradict His own Conſcience for any Counſellers ſake whatſoever. *Tis granted in things viſible and certain, That Judge which is a ſole Judge, and his competent power to ſee his own judgement executed, ought not to determine againſt the light of nature or evidence of fact. The Sin*

*of Pilate was, that when he might have saved our Saviour from an unjust Death, yet upon accusations contradictory in themselves, contrary to strange Revelations from Heaven, he would suffer innocence to fall and passe sentence of Death, meerely to satisfie a blood-thirsty Multitude. But otherwise it was in my Lord of* Straffords *case, for the King was not sole Judge, nay He was uncapable of sitting Judge at all &c. And therefore the King might therein with a clear Conscience have signed a Warrant for his Death, though He had dissented from the judgement. So if one Judge on the same Bench dissent from three, or one Juror at the Barre from eleven, they may submitt to the major number, though perhaps lesse skilfull then themselves, without imputation of guilt: and if it be thus in matters of Law a fortiori, tis so in matters of State, where the very satisfying of a Multitude sometimes in things not otherwise expedient, may prove not only expedient but necessary for the setling of Peace and ceasing of strife &c. where the People by publick Authority will seek any inconvenience to themselves, and the King is not so much interested in it as themselves, tis more inconvenience and injustice to deny then grant it; what blame is it then in Princes, when they will pretend reluctance of Conscience and Reason, in things behovefull for the People?*

*Answer.*

*f.* 23. That which His Majesty saith that a Man may not goe against the Dictate of His own Conscience, is so certain, that no Man that hath his eyes in his head

head can deny it. The Scripture is plain, *he that doubteth is damned if he eate, because he eateth not of Faith, for whatsoever is not of Faith is Sinne.* Rom. 14. Reason is as evident, that all circumstances must concurre to make an action good, but one single defect doth make it evill. Now seeing the approbation of Conscience is required to every good action, the want thereof makes it unlawfull, not simply in it selfe, but relatively, *huic, hic, nunc*, to this Person, at this time, in this place. Therefore all Divines doe agree in the case of a scrupulous Conscience, that where a Man is bound by positive Law to doe any Act, and yet is forbidden by the Dictates of his own Conscience to do it, he must first reform his understanding, and then perform obedience. And this in case where a thing already is determined by positive Law: but in His Majestyes case where the question is not of Obedience to a Law already constituted and established, but of the free election or assenting to a new Law before it be enacted, it holds much more strongly. But yet this is not all, there is a third obligation (& a threefold cord is not easily broken.) Take one instance, the King is bound by His Coronation oath to defend the Church, to preserve to the Clergy *all Canonicall Privileges & the free franchises granted to them by the glorious King Saint* Edward *and other Kings.* Now suppose such a Bill should be tendred to His Majesty to deprive them of their temporall goods, as was tendred to *Henry* the fourth in that Parliament called the *Lay Parliament*; suppose that His Majesty is very sensible of the obligaon of His Oath, but sees no ground of dispensation with his oath: the Clergy (as then *Thomas Arun-*

*dell*, Arch-Biſhop of *Canterbury*) are his Remembrancers and conſent not to any alteration; what ſhould a King doe in this caſe? in the one ſcale there is Law, Conſcience, and Oath, in the other the tender reſpect which he beares to a great part (yet but a part) of his people. I preſume not to determine: but our Chroniclers tell us what was the event then, That his Majeſty reſolved to leave the Church in as good State or better then he found it, That the Knights confeſſed their error, and deſired forgiveneſſe of the ſame Arch-Biſhop, That when the ſame motion was renewed after in the ſame year of his Raigne, the King commanded them that from thenceforth, they ſhould not preſume to move any ſuch matter. Even as his Predeceſſor *Richard* the ſecond in the very like caſe had commanded the ſame Bill to be cancelled: Kings then did conceive themſelves to have a negative voice, and that they were not bound by the votes of their great Councell.

Theſe grounds being laid, the Obſervers inſtances will melt away like Winter ice. Firſt the Oath and obligation is viſible and certain, but the diſpenſation or neceſſity of alteration, is inviſible and uncertain. Secondly the rule that a man may not contradict his own Conſcience for the adviſe of any Counſeller, is univerſall, and holds not onely in actions judiciary whether ſole or ſociall, but generally in all the actions of a Mans Life. Thirdly the underſtanding is the ſole Judge or Directer of the will: the ſin of *Pilate* was not to contradict Revelations (which he never had,) but for fear of complaints, and out of a deſire to apply himſelfe to an inraged Multi-

ſultitude, to condemne an innocent Perſon. The bſervers inſtance in the Earle of *Strafford*, might well ave been omitted, as tending to no purpoſe, unleſſe be to ſhew his inhumanity and deſpight to the dead ſhes of a Man, who whileſt he was living might ave anſwered a whole Legion of Obſervers: and at is death by his voluntary ſubmiſſion, and his owne etition to His Majeſty, did endeavour to clear this oubt and remove theſe ſcruples. Take the caſe as he Obſerver ſtates it, yet juſtice is ſatisfied by his eath: and if it were otherwiſe, yet it is not meet for im or me for to argue of what is done by His Majeſty r the great Councell of the Kingdom; That rancour s deep which purſues a Man into another World.

But where the Obſerver addes, That His Majeſty was not the ſole Judge and that he was uncapable of ſitting Judge at all: I conceive he is much miſtaken. His Majeſty may be Authoritative Judge where he doth not perſonally ſit: and the naming of a Delegate or High Steward to be a pronunciative Judge, doth not exclude the principall. The inſtance of a Judge giving ſentence according to the major number of his Fellow Judges though contrary to his own opinion, is altogether impertinent: for this is the judgement of the whole Court not of the Perſon, and might be declared by any one of the Bench as well as another. Such a Judge is not an Authoritative Judge, but pronunciative onely: neither can he make Law but declare it, without any negative voice. The other inſtance of a Juror concurring with the greater number of his Fellow Jurors, contrary to his Conſcience, is altogether falſe and di-

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rect Perjury. Neither of them are applicable to Hi
Majesty, who hath power both to execute and pardon
It is true, necessity of State justifies many thing
which otherwise were inexcusable: and it is as tru
that it is not lawfull to doe evill that good may com
of it.

His last assertion, that *where the People by publick*
*authority will seek any inconvenience to themselves, an*
*the King is not as much interessed as themselves, it i*
*more injustice to deny then grant it*, is repugnant to wha
he saith a little after, that *if the People should be s*
*unnaturall as to oppose their own preservation, the Kin*
*might use all possible meanes for their safety*, and much
more repugnant to the truth. The King is the Father o
his People; he is a bad Father that if his Sonne aske
him a stone in stead of bread, or a Scorpion in stea
of a Fish, will give it him. That Heathen was much
wiser who prayed to *Jupiter* to give him good things
though he never opened his lippes for them, and re
withhold such things as were bad or prejudiciall
though he petitioned never so earnestly for them. Sup
pose the People should desire Liberty of Religion
for all Sects; should the King grant it, who is con
stituted by God the Keeper of the two Tables? Sup
pose they should desire the free exportation of Arms,
Monyes, Sheep, (which they say *Edward* the fourth
for a present private end granted to the Kings of
*Castile* and *Arragon*) and that this should be assen
ted to by the Observers advise; would not the pre
sent or succeeding Ages give him many a black bles
sing for his labour?

God

*God helpe the Man so wrapt in errors endlesse traine.*

First to say that the People may seek no other in their desires of the Prince by publick Authority, neither doe Magistrall or slur no offense, a phrase unsavoury to English eares. *Henry* the fifth was no such Eye-sight nor awefull Soveraigne, yet when the Lords and Commons presented a just request unto him, they did it kneeling upon their knee, (as signe of Authority in him.) Secondly the King owes an strict account to God of his Government, and is bound by his Office to promote the good of His Peoples. He, not any Act that may be impeditive to this end, nor the satisfaction of an humorous Multitude, is not consistent with this Obligation. Thirdly, His Majesty conceives the thing now desired, to be more then a simple or single inconvenience, that himself is deeply interessed in it, and not himself only, but his Posterity and all succeeding Kings, and that it is not the desire of all His Subjects, nor yet of the greater part, much lesse of the sounder part who dissent herein: and therefore even upon the Observers grounds, he is not bound to give his assent.

**Observer.**

*So much for the ends of Parliaments, Power, &c. Come now to the true Nature of it, publick Consent &c.*

**Answer.**

*Answer.*

*Sect.* 24.

We had done with Consent before, but now we me
with it again: such Windings and *Meanders* there a
in this Treatise. But though Consent be like the tit
set upon the outside of an Apothecaryes box, yet
we look into the subsequent Discourse, we shall fi
little or nothing of it. The Observer tells us a long st
ry, that After the fall of *Adam* the Law written i
Mans breast was not sufficient to make him a soci
ble Creature, that without Society Men could no
live, and without Laws Men could not be sociable
that without Magistrates Law was a voide and va
thing: for which reason it was therefore quickly provided that Law
agreeable to the Dictates of Reason, should be rat
fied by common consent, and that the execution a
interpretation of those Laws should be intrusted
some Magistrate. To all which I readily assen
without this animadversion, that the rule is not
passing an universally true. As for the order of Law
or Magistrates, it is confessed on the one side tha
sometimes the People did choose their Magistrat
and Law both together, and sometimes the Law be
fore the Magistrate, especially upon the extinction
of a Royall Family. But on the other side it canno
be denyed that many times, very many times, Ma
gistrates did either assume Soveraignty by just Con
quest, or were absolutely elected without any such
restriction. So much the Observer confesseth a litle
after, that *in the infancy of the World, most Nation*
*did choose rather to submit themselves to the meere dis*
*cretion*

*discretion of their Lords, then rely upon any limits, and be ruled by Arbitrary Edicts, rather then written Statutes*, In which case it is plaine, that the Law is posteriour to the King, both in order of Nature and of Time.

The Observer proceeds to shew; That intrusted Magistrates did sometimes tyrannize over their People; that it was difficult to invent a Remedy for this mischief. First because it was held unnaturall to place a Superiour above a Supreme. Secondly, because the restraint of Princes from doing evill, by diminution of Soveraigne Power, doth disable them also from doing good, which may be as mischievous as the other; That the World was long troubled between these extremityes; That most Nations did choose absolute Governours; That others placed Supervisors over their Princes, *Ephori, Tribuni, Curatores*; (which remedy the Observer confesseth to have proved worse then the disease, and that the issue of it commonly was to imbroile the State in blood;) That in all great distresses the Body of the People was constreined to rise and by the force of a Major party to put an end to all intestine Strifes; That this way was too slow to prevent suddain Mischiefes; That it produced much spoile and effusion of blood, often exchanging one Tyranny for another; That at last a way was found out to regulate the moliminous Body of the People by Parliament, where the People may assume their own power to doe themselves Right, where by vertue of Election and Representation, a few act for many, the wise for the simple; That the Parliament is more regularly formed now then when it was cal-

called the *Mickle Synod*, or where the reall Body of the People did throng together; That the Parliament yet perhaps labours with some defects that might be amended, & that there are yet some differences and difficultyes concerning it, especially the Privileges of it, which would be resolved. This is the summe of his Discourse here, and a little after in the 21. page and the three pages following, he falls into a needlesse commendation of the Constitution of Parliaments, of their Wisdome and Justice, how void they are of danger, how full of advantage to the King and People, how *Princes may have sinister ends but that it was never till this Parliament withstood that a Community can have no private ends to mislead it.*

In all which there are not many things to be much misliked, saving some results of his former false and seditious Principles; as that the People are the Primogenious Subject of Power, that the essentiall and representative Body of the Kingdome are all one (he might as well say that a whole County and a Grand Jury are convertible terms.) To place a Superiour above a Supreme is monstrous, and opens a ready way to an infinite progresse, which both Art and Nature abhorre. I joyne with him in this, that to limit a Prince too far is often the cause of much mischief to a State. But the Observer having given a good meale casts it down with his Foot: for after in the 40 page he tels us that *the People had better want some right, then have too much wrong done them.* It may be so, it may be otherwise: but ordinarily the sufferings of one year in a time of Sedition, are

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more burthensome to the Subject, then the pressures they sustein from a hard Soveraigne in a whole Age. A limited Commission may now and then bring ease to a Society, but an unsufficient Protection exposeth them to an hundred hazards and blowes, from Superiours, Inferiours, Equalls, Forreiners, Domesticks. The Observer would have *such a Prerogative as hath great power of Protection and little of oppression.* Can you blame him? he would have his fire able to warm him, but not accidentally to burn him. Protection is the use, oppression the abuse of power. To take away power for fear of the abuse, is with *Lycurgus* to cut down all the vines of *Sparta, roote and branch,* for fear of Drunkennesse. By the same reason he will leave neither a Sunne in Heaven, nor any Creature of eminency on Earth. If he will have no Bees but such as have no stings, he may catch Drones, and want his honny for his labour. To limit Princes too farr is as if a Man should cut his Hawkes wings that she might not fly away from him: so he may be sure she shall never make a good flight for him. Saint *Bernard* tells us a Story of a King who being wounded with an arrow, the Chirurgeons desired Liberty to bind him, because the lightest motion might procure his Death: his answer was *non decet vinciri Regem,* it is not meet that a King should be bound, and the Father concludes

*Libera sit Regis & semper salva potestas.*

In two particulars this third *Cato* is pleased to expresse himselfe, he would have *the disposition of great offices, &*

*power of calling and dissolving Parliaments*, shared betwen the King and the People. Yes the great Offices of the Kingdome and the Revenues of the Church have been the great wheeles of the Clock, which have set many little wheeles a going; doubt you not the Observer meant to lick his own fingers. These speculations might be seasonable in the first framing of a Monarchy: Now when a Power is invested in the Crown by Law and lawfull Custome, they are sawcy and seditious. Howsoever his bolt is soone shot, *He that is wise in his own eyes, there is more hope of a Foole then of such a Man*. Others as much wiser then he is, almost as he conceives himselfe to transcend them, are absolutely of another mind; that this were to open a sluce to Faction and Sedition, to rolle the Apple of Contention up and down both Houses of Parliament and each County and Burrough in the Kingdom, to make labouring for places & packing for votes, & in a word to disunite and dissolve the contignation of this Kingdom; This in Policy. They say further, that in Justice, If the King be bound by His Office and sworn by His Oath, *to cause Law, Justice, and Discretion, in mercy and truth to be executed to His People*, If he be accountable to God for the Misgovernment of his great Charge, that it is all the reason in the World why he should choose his own Officers and Ministers. Kings are shadowed by those brazen Pillars which *Hiram* made for *Solomon*, having Chapiters upon their heads adorned with Chaines and Pomgranates. If these Sonnes of *Belial* may strip Majesty by Degrees of its due Ornaments, first of the chaines, that is the power to punish evill

Doers

Doers, and then of the Pomegranates, the ability to reward good deserts, and so insensibly to robbe them of the dependence of their Subjects; the next stepp is to strike the Chapiters or Crownes from of their heads. But how can this be, except all Parliaments were taken as deadly Enemyes to Royalty? Still when the Observer comes to a piece of hot Service, he makes sure to hold the Parliament before him, which devise hath saved him many a blow. They that are not haters of Kings may be Lovers of themselves: We are all Children of *Adam* and *Eve*: He would be a God and she a Goddesse. His instance that *this is no more then for the King to choose a Chancellour or a Treasurer* upon the recommendation *of such or such a Courtier*, is ridiculous; there His Majesty is free to dissent, here is a necessity imposed upon him to grant. Yet saith he, *the* Venetians *live more happily under their conditionate Dukes, then the Turks under their absolute Emperours. The Trophees which* Rome *gained under conditionate Commanders, argue that there could be no defect in this popular and mixt Government. Our Neighbours in the* Netherlands *being to cope with the most puissant Prince in Christendom, put themselves under the conduct of a much limited Generall, which streighthned Commissions have yeelded nothing but victoryes to the States, and solid honour to the Prince of* Orange. *were* Hannibal, Scipio &c. *the lesse honoured or beloved because they were not independent? was* Cæsar *the private Man lesse successfull or lesse beloved then* Cæsar *the perpetuall Dictator?* Whatsoever is more then this, he calls *the painted rayes of spurious Majesty*, and the *filling of a phantasticall*

taſticall humour with imaginary grandour. Whoſe heart doth not burn within him to heare ſuch audacious expreſſions? yet ſtill he proteſts for Monarchy, A fine *Monarchy* indeed, a *great and glorius Monarchy*, an *Ariſto-Democracy* nicknamed *Monarchy*, a circumſcribed, conditionate, dependent *Monarchy*, a *Mock-Monarchy*, a *Monarchy* without coercive Power, able to protect, not to puniſh; that is in effect neither to protect nor punish, a *Monarch* ſubordinate to a Superiour and accountable to Subjects, that may deny nothing, a Monarchy in the Rights whereof another challengeth an intereſt Paramount. *Quorſum hæc?* he is more blind then a Beetle that ſees not whither all this tends, To advance King *Charles* to the high and mighty Dignity of a Duke of *Venice* or a *Roman Conſull*: whileſt this Gentleman might ſit like one of the *Tribunes* of the Common People to be his *Superviſor*. It were to be wiſhed that the Obſerver would firſt make tryall of this modell of Government in his own Houſe for a yeare or two and then tell us how he likes it. That Form may fit the Citty of *Venice* that will not fit the Kingdome of *England*. I beleeve he hath not carefully read over the Hiſtory of that State; Though now they injoy their Sun-ſhines and have their *Lucida intervalla*; yet heretofore they have ſuffered as much miſery, from their own Civill and Inteſtine Diſſentions as any People under Heaven: and ſo have their Neighbour States of *Genoah*, *Florence*, &c. And of *Florence* particularly it is remarkeable, that though their Prince hu-band his Territory with as much advantage to himſelfe and preſſure to his People, as

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any Prince in *Europe*: yet they live ten times more happily now, then they did before in a Republick; when a priviledged Fellow out of the Scumme of the People could raise Tumults, surprise the Senate, and domineere more then two great Dukes; so that now they are freer then when they did injoy *those painted rayes of spurious Liberty*. If the *Romans* had not found a defect in their popular Government, they had never fled to the choise of a Dictator or absolute Prince, as a sacred Anchour in all their greatest extremityes. And for the *Netherlands*; it is one thing for a free People to elect their owne forme of Government; another for a People obliged to shake off that Forme which they have elected. It is yet but early of the day to determine precisely whether they have done well or ill. The danger of a Popular Government is Sedition; a common Enemy hath hitherto kept them at unity; and the King of *Spaine* hath been their best Friend. *Scipioes* opinion that *Carthage* should not be destroyed was more solid and weighty then *Catoes*, (as experience plainly shewed.) Those Forrein Warres preserved Peace at home, and were a Nursery of Souldiers to secure that State. When the United States come to have peace a while, then let them take heed of falling in pieces. The condition of the English Subject when it was at the worst under King *Charles* (before these unhappy broiles) was much more secure and free from excises and other burdens and impositions, then our Neighbours the *Netherlanders* under their States. If His Majesty should use such an Arbitrary Power as they doe, it would smart indeed. I wonder the Observer is not ashamed

to

to instance in *Hannibal* : he knows the Factions of *Hanno* and *Hannibal* did ruine themselves and *Carthage* : whereas if *Hannibal* had been independent, *Rome* had run that fortune which *Carthage* did. How near was *Scipioes* Conqueſt of *Affricke* to be diſapointed, by the groundleſſe ſuggeſtions of his Adverſaryes in the Roman Senate ? When he had redeemed that Citty from ruine, how was he rewarded ? Sleighted, called to the Barre by a factious *Plebeian*, and in effect baniſhed from that Citty whereof he had been (in a kind) a ſecond *Romulus* or Founder: but if he had been independent, he had been a nobler gallanter *Scipio* then he was. And if *Cæſars* Dictatorſhip had not preſerved him from the like ſnuffles, he might have taſted of the ſame ſawce that *Scipio* did and many others. It is true he was butchered by ſome of the Obſervers Sect, (a Rebell is a civill Schiſmatick, and a Schiſmatick an Eccleſiaſticall Rebell, the one is *togata*, the other is *armata ſeditio*,) and ſome of them as notoriouſly obliged as Servants could be to a Maſter: but revenge purſued them at the heeles as it did *Korah* and his Rebellious Crew, *Zimri*, *Abſalom*, *Adonijah*, *Achitophel*, *Judas &c.* Froſt and falſhood have alwayes a foule ending.

Neither is it true altogether, That Parliaments are ſo late an invention. What was the *Mickle Synod* here but a Parliament ? what were the *Roman Senates* and *Comitia*, but Parliaments ? what were the *Grecian Aſſemblies*, *Amphictionian*, *Achaian*, *Boetian*, *Pan-Ætolian*, but Parliaments ? what other was that
*Deut.* 33. 4. then a Parliament, *Moſes commanded us a Law, even the inheritance of the Congregation of* Jacob. *And he*

*was*

was King in Jesurum, *when the Heads of the People and Tribes of* Israell *were gathered together*? Here is the King and both Houses with a legislative power. *Non de possessione sed de terminis est contentio*; the difference is not about the being of Parliaments, but the bounds of Parliamentary Power. As Parliaments in this latitude of signification have been both very ancient, and very common: so if he take the name strictly, according to the present constitution of our Parliament, he will not find it so very ancient here at home, nor a Policy common to us with many Nations; yea, if the parts of the comparison be precisely urged, with none, not so much as our Neighbour Nation. I pray God it be not some Mens aime to reduce our setled Form to a conformity with some forrein Exemplars. But if it be understood to have such a fulnesse of power, as he pretends, according to his *late found out art, to regulate the moliminous body of the People*; it is neither ancient, nor common, nor ours. He may seek such presidents in republicks, but shall never find so much as one of them in any true Monarchy under Heaven.

I honour Parliaments as truely as the Observer, yet not so as to make the name of Parliament a *Meduſaes* head, to transform reasonable Men into stones. I acknowledge that a compleat Parliament is that *Manchreston*, or Soveraigne salve, for all the Sores of the Common-wealth. I doe admire the presumption of this Observer, that dare find holes and defects in the very constitution of the Government by King and Parliament, (which he should rather adore at a distance,) as if he were of the posterity of *Jack Cade*,

who called himselfe *Iohn Knead all*. It is lawfull for these Men onely to cry out against innovations, whilest themselves labour with might and maine to change and innovate the whole frame of Government both in Church and Commonwealth. We reade of *Philip* of *Macedon*, that he gathered all the naughty seditious fellowes in his Kingdome together, and put them all into a Citty by themselves, which he called *Ponero-olis* or *Badman Chester*. I wish King *Charles* would doe the like (if a Citty would contein them all) and make the Observer the head of the Corporation, where he might molde his Government according to his private conceit.

And yet it cannot be denyed, but the greatest and most eminent Councells in the World, may be either made or wrought by the major Part to serve private ends. I omit the Lay Parliament 1404, and Sir *Henry Wottons* younge Parliament 18. *Jacobi*; our Historians tell us of a Mad Parliament 1258, and the Parliament of Bats or Bittownes 1416, a kind of Weapon fitter for Cavaleers then peaceable Assemblyes. The Statutes of *Oxford* were confirmed by the Parliament at *Westminster* 1259, and ratified by a course against the breakers of them: shortly after the King and Prince were both taken Prisoners: yet in the Parliament following at *Winchester* 1259. all the said Acts were rescinded and disanulled, and the King cryed quittance with his Adversaryes. In the raigne of *Edward* the second after the Battell at *Burton*, we see how the tydes of the Parliament were turned, untill the comming of Queen *Isabell* and then the Floods grew higher then ever. In the dayes

of

of *Richard* the second, how did the Parliaments change their Sanctions? as the *Camelion* her colours, or as *Platina* writeth of the Popes, after *Stephen* had taken up the body of *Formosus* out of his grave, *It became an usuall thing for the Successors either to infringe or altogether to abrogate the Acts of their Predecessors.* The Parliaments of 1386. and 1388. were contradicted and revoked by the subsequent Parliaments of 1397. and 1398, and these again condemned and disanulled by the two following Parliaments in 1399. and 1400; yea though the Lords were sworn to the inviolable observance of that of 1397, and *Henry Bullenbrooke* who was a great Stickler for the King in that Parliament of 1397. against the Appealants; yet in that of 1399, was elected King by the Trayterous deposition of *Richard*, and the unjust preterition of the right Heires. Parliaments are sublunary Courts, and mutable as well as all other Societyes. If we descend a little lower to the times of *Henry* the sixt, we shall find *Richard* Duke of *Yorke*, declared the Lord Protector in Parliament, yet without Title to the Crown in 1455. Shortly after we find both him and his Adherents by Parliament likewise attainted of High Treason in 1459. The yeare following 1460, he was again by Parliament declared not only Lord Protector, but also Prince of *Wales* and right Heire to the Crown, and all Acts to the contrary made voide, and the Lords sweare to the observance thereof. It rests not here, the very next year 1461. his Sonne *Edward* the fourth not contented to be an Heire in reversion, assumes the Imperiall Diadem, and in Parliament is received actuall King. The

end is not yet, ten yeares after this 1471, King *Henry* is admitted King by Parliament again, and King *Edward* attainted of High Treason, declared an Usurper, and the Crown intailed upon King *Henry* and his Heires Males, and for want of such Issue, to *George* of *Clarence* and his Heires. But this lasted but a while: disinherited *Edward* and *Clarence* are reconciled, and the very next Yeare, *Edward* is Crowned again, and received King in Parliament. You see here,

*Signa pares aquilis & peila minantia peilis,*

Parliaments against Parliaments: and this in that very question which you say is properly to be judged by Parliament, who is the right King? When the election is not of a particular person and his Heires, but of a Person and his Family, so as the People have liberty to elect whom they please of that stock, (as it was long since in *Scotland*, till it was rescinded by Act of Parliament to take away those storms of discord and Faction which it raised,) The Parliament was the most proper Judge who should succeed: but where the Crown is hereditary, there needs little question of the right Heire, which for the most part every Country Man knows as well as the great Councell of the Kingdome. How easily were Queens raised and deposed in *Henry* the eights time by Authority of Parliament? Adde to this with what facility Religion was reformed in part by *Henry* the eight, more by *Edward* the sixt, altered by Queeen *Mary*, & restored again by Queen *Elizabeth*, & all this by Authority

thority of Parliament within the compasse of a few yeares: and it will evidently appear out of all that hath been said, that Parliaments are not excepted from the defects of all humane Society yet, Nescience, Ignorance, Feare, Hope, Favour, Envy, Selfe-love, and the like, That they may erre both in matters of Fact, and in point of Right, That it is the incommunicable property of God alone, to be *the same yesterday, to Day, and for Ever*, That though we owe a tender respect to Parliaments, yet we may not follow their directions as infallible, nor resolve our reason into their meere Authority, as if their sole advice or command were a sufficient ground for our actions, which is the maine scope which this *Jehu* our Observer doth so furiously drive at in all his writings, *That no evill is to be presumed of the representative Body of the Kingdom.* And so farre he is right; it ought not indeed to be presumed without proofe. But he goes further that it may not be supposed or admitted, *It is of dangerous consequence to suppose that Parliaments will do any injustice, it looseth one of the firmest sinews of Law to admit it.* *first ob. p. 7.*

But *such Communities can have no private ends.* What had the *Shechemites* by the suggestion of a worthy Member of their Citty? Or the Brethren of *Joseph*? If any Man boggle at it, only he not be overvoted or overawed, as *Reuben* was? What ends had the *Romans* when they made that arbitriment; *quod in medio est, populo Romano adjudicetur*? What had the whole Citty of *Ephesus*, being perswaded by *Demetrius* and his Craftsmen, that there was a strange plot against *Diana*? The High Priests, and Scribes, and *Gen.* 34 *Gen.* 37.

Elders,

Elders, and if you adde to these, *Pilate*, *Judas*, the Souldiers and the Divell, all had their private ends. The High Priests and Elders to satisfy their envy, *Pilate* to keep his place, *Judas* to get the thirty pieces, the Souldiers for Christs Garments: yet all these concurred in a generall designe to take away Christ. Which shews us thus much, That a Community may have private ends, yea, and contrary ends, all tending to mischief, though upon contrary grounds: and yet all agree well enough so long as they keep themselves in a negative or destructive way. I intend these instances no further then to shew the weakness of the Observers grounds; Parliaments are more venerable: yet till *this corruptible have put on incorruption*, private ends will seek to crowde into the best Societyes. When a Bill was tendred to *Richard* the second to take away the temporalties of the Clergy, there was old sharing: And *Thomas Walsingham* saith, he himselfe did heare one of the Knights sweare deeply, that he would have a thousand marks by year, out of the Abby of Saint *Albons*. The very like Bill was put up to King *Henry* the fowerth, with this motive or addition, That those temporall Possessions would suffice to find an hundred and fifty Earles, fifteen hundred Knights, six thousand and two hundred Esquires, and an hundred Hospitalls more then there was in the Kingdome, (it had been a great oversight if they had not stuck down a few feathers.) Do you not see private ends in those dayes? but even then they found themselves mistaken in their accounts. And now when the Lord *Verulam* and sundry others of our most eminent Countrymen

have

some acknowledged (I have heard the very same from Sir *Edwin Sands*) that *all the Parliaments since the* 27. *and* 31. *of King* Henry *the eight, seem in some sort to stand obnoxious and obliged to God in Conscience to do somewhat for the Church, to reduce the Patrimony thereof to a competency.* Now I say when the Temporalties of the Clergy are so inconsiderable in comparison of the Honour of the Nation and the Order of the Church, and so unable to satisfy the appetite and expectation of necessitous men; in so much as I dare speak it confidently, that all the Temporalties of the Arch-Bishops, Bishops, Deanes, Arch-Deacons, Deanes and Chapters, Prebends, Petty Canons, Vicars Chorall, (which are recited *in folio* to make a shew,) and of all the Ecclesiasticall Dignitaryes and Corporations whatsoever, let them take Masters of Hospitalls in to boote, (except the two Universityes and Glebes of Benefices with cure,) do not all amount in penny-rent to the Revenues of some two Earles: Such a proposition seems now to be much more unseasonable then it was then, yet even then the Bill was commanded by the King to be cancelled. I confesse the true and uttermost value, may be double or triple to this, but what is redundant above the rent is in the hands of the Gentry and Commons, who will think much to lose either their Interest or Tenent-right. I confesse likewise that besides their Temporalties, they have Spiritualties consisting of Tithes and Oblations; but to think of taking these away also, will highly displease their Leaders of the old Edition. Hear the humble motion: *It is the duty of the Commonwealth*

*Consideration dedicated to King James*

to

*to convert those things which by their foundation were meant to the service of God to that very use, that Reformation be not rather thought a baite to feed our bellyes then to proceed of godly zeal.* He calls it *a plaine mockery of God, a scorn of Godlinesse, the most Divellish Policy in the world, that upon pretence to further Gods Service, Men should rob and ransack the Church.* To the same purpose Mr. *Cartwright, This is our meaning, not that these goods should be turned from the Possession of the Church, to the filling of the bottomlesse sacks of their greedy appetites, who gape after this prey, and would thereby to their perpetuall shame purchase to themselves a field of blood.* After he calls them *Cormorants* and protests against it as plaine *Sacrilege.* A supply from hence, As it is Sacrilegious in the opinion of their greatest Reformers: so it would be inconsiderable either to inrich the Crown, or to disingage the Kingdom, or to satisfy the appetites or private ends of necessitous Persons.

Observer.

*Having now premised these things, I come to the maine difficulties lying at this time in dispute before us, &c.*

*Answer.*

§. 25. We have now done with all the Observers grounds; The remainder of his Treatise is either a repetition of the same matter in a new and diverse dresse; as the Hoast of *Chalcis* served *Titus Flaminius*, when he gave him

him severall services of a tame Hogge, and yet by Cookery made him believe he fed upon choise variety of Venison; *Faire fall a good Cooke*: or else it is but superstructions builded upon the former Grounds, which (the foundations being substracted) remain as Castles in the aire, ready to fall of themselves without any further battery: or else it is matter of fact, which howsoever it be disguised by fictions in this feculent Age, when the Father of lyes is let loose; yet it is well enough known to the greater and better part of the Kingdome. Such is the question of the *Militia*, so often iterated by the Observer, both in point of right and in point of fact: such is the case of the impeached Members: and that of the Tumults and Commotions at *London* and *Westminster*: and that of those infamous Libells and invectives against his Majestyes Government, both out of the Pulpit and Presse, if not with incouragement yet without any restraint; and some of them not onely against his Government, but against Monarchicall Government in generall, as this very Treatise of the Observers. Concerning the first, His Majesty hath set forth an expresse Declaration of the first of *July*, yet unanswered: to say more in this were to bring Owles to *Athens*. Concerning the latter, His Majesty passing by ordinary and misled Persons, chargeth the Heads aud Contrivers of these Distractions and Libellous Invectives, in his Declations of the 12 of *August* &c. so as it seemes needlesse to take any further notice of them. Such others are that of the Scorch Army, and the surprising of *Newcastle*, and the Earle of *Straffords* case: whereas the Observer knows well enough that for the two former

 there

there is an Act of Oblivion, and for the latter a *proviso* that it ſhall not be drawne into preſident, which in effect is as much. He cannot chooſe but know, that otherwiſe ſomething might be ſaid in theſe caſes which perhaps would trouble him to untwiſt: To inſult over one that hath his hands tyed, or to brave one who is bound to the peace, argues a degenerous Adverſary. Therefore to omit theſe and the like, and to inſiſt upon ſuch onely as afford us either new matter, or have more weight of Reaſon added to them.

Hull *and* Iohn tham,

Whereof the principall without compariſon is the buſineſſe of *Hull* or Sir *Iohn Hotham*, which runs ſo much in the Obſervers mind, that he falls upon it nine or ten times in this little Treatiſe, and after he profeſſeth to have done with it pag. 30, yet he relapſeth into it again thrice in the 33. 35. and 43. pages. I ſhall not omit any thing that hath the leaſt ſcruple of weight or moment to advantage Sir *Iohn Hothams* cauſe.

Firſt it is confeſſed by the Obſerver, *That to poſſeſſe a Towne and ſhut the gates againſt the King is Treaſon.* A liberall conceſſion; he had an hard forehead that ſhould deny it. To detein one of the Kings ſhips or Caſtles onely, without danger to His Perſon, is Treaſon: what is it then, firſt, to intrude forcibly, and then to detein injuriouſly, not a Pinnace or little Tower, but one of the prime Ports and Strengths of the Kingdom, and in it the Kings whole Magazine or proviſion of Warre, and to raiſe His Majeſtyes own Subjects to keep it with Muskets bent againſt His Royall Breſt? They had need to be very ſaving Circumſtances that can alter the nature of ſuch an act, or

have

have virtue to transubstantiate *Cataline* into *Camillus*, and change Treason into Loyalty. Who made the Observer a Distinguisher where the Law doth not distinguish? But let us view his Reasons without prejudice.

Three things are alledged, first the circumstances of the action, Secondly, the intention of the Actors, Thirdly the Authority of the Commanders. For the first he saith, *The King was meerely denyed entrance for the time, his generall Right was not denyed.* I doe easily beleeve, that Sir *John* meant not to hold *Hull* for ever: If he did, he is not such a Child to say so. When the Lord *Gray* and his Complices had plotted to surprise the *Tower* or *Dover Castle*, and to possesse themselves of the Persons of King *James* & his Councell, it was not their designe to hold those Forts, or detein them Prisoners for ever: but untill they had gained their own conditions, which were the alteration of Religion, and the distribution of the great Offices of the Kingdome among themselves; yet it was never the lesse adjudged Treason, and they condemned for it.

He addes, *No defying language was given to the King.* No more did *Judas* give the King of Kings when he cryed, *Hail Master & kissed him.* The Prophet complaineth, of some that *the words of their mouths were softer then butter, but Warre was in their hearts.* It was as true as tart a censure, which *Johannes Capocius* a noble *Romane*, gave of *Innocent* the third, who did privately blow the coales betwixt *Otho* and *Frederick*, *O Holy Father, your words are the words of God*

(peaceable & pious) *but your deeds are the deeds of the Devill.*

He proceeds, *No act of violence was used, though the King for diverse houres together did stand within musket shot, and did use terms of defyance,* and *this makes the act meerely defensive or rather passive.* Passive! how can that be? notwithstanding the intrusion of Sir *John*, the King is still the Possessor, and the deteining is forcible in the eye of the Law. This very plea argues a rotten and a trayterous heart: To kill an innocent and an anoynted King in the sight of the Sun, requires an height of impiety, a longer preparation of Partners, and instrumenrs fleshed in Blood and Mischiefe. He that should have commanded such a shot, had need to have given his charge in ambiguous terms, as *Edvardum occidere nolite timere bonum est*, or otherwise might have been thrown over the walls for his Labour. If such a shot had fayled, it had been destructive to the Actor and all his Partakers: if it had taken it would have made them stinke in the nostrills of all good Men; but for my part I doe not beleeve there was any such intention. Howsoever we have been told that in the place of the *Barons Warr*, we should expect the *Commons Warres*: yet generally the English Nation delights not so much in *Democracy* as the Observer doth; and a more gracious King they could not have, whose death would have dissolved many mens hopes. Howsoever as King *Alphonsus* answered his Phisitian, when he perswaded him not to handle the works of *Livy* (which were sent
Syl- unto him by a great *Florentine*) for fear of poyson, *The Lifes and Soules of Kings are secure under the provi-*

*dence*

*dence and protection of God*: or as a Traytour answered the King of the *Danes*, *That he wanted neither mind nor sufficient meanes to have effected his intentions, but the assistence and concurrence of God was alwayes wanting.* Which was verified in a conspiracy against King *James*, when the Murderer smitten into an amazement by Gods just judgement, could neither stirre hand nor foot. *Saxo.*

It follows, *How should this administer to the King any grounds to levy guards at* Yorke? &c. *Did the King without fear treat with Sir* Iohn Hotham *as a Traytour in the face of his Artillery, and offer to enter Hull with twenty horse unarmed, and continue such a harsh Parley so many houres; and yet when he was in* Yorke, *in a County of so great assurance, could nothing but so many Bands of Horse and Foot secure him from the same Sir* Iohn Hotham? I wonder the Observer doth not blush to be His Majestyes Remembrancer how much he descended from his Royall State that day, in his attendence so many houres, and his courteous proffers. Is it because he thinks good Subjects take delight to hear of such an audacious affront put upon their Soveraigne? Or of that base scandalous picture so much gazed at in Forrein parts, of Sir *Iohn Hotham* standing aloft armed *Cap a pe*, incircled with Gallants and great Ordinance, like another *Achilles*,

*Impiger, iracundus, inexorabilis, acer*;

Whilest His Sacred Majesty was pictured below like a Chancery Petitioner with his hat in his hand

hand, pittyfully complaining and suing to Sir *Iohn* for admission? But the King called Sir *Iohn Traytour*, and gave him harsh language. Did he so? you may remember what *Philip* answered for the *Macedonians*, when some of his own wicked instruments complained they called them Traytours; *that his Countrymen were plain dealing men to call things by their right names, and could not for their lifes think one thing and say another*. If *Philip* a Prince benefited by those Creatures, pleaded so for his Subjects; why might not King *Charles* who was injuried, and a loser, have leave to speak for himselfe to his own Subjects? But if the King were so confident there, why did he raise Forces at *Yorke*, a place of more *assurance*? First shew us your Commission to take his Majesties answer, or at least tell us why Sir *Iohn* began to raise Forces first? His Majesty *is* authorized by God and the Law to raise Forces, and owes no account to the Observer. And to His Majestyes confidence then, and diffidence after, I can say nothing positively: if it were in another case, there might be sundry reasons given. Perhaps the second cogitations are the sounder; or Men may hope for better measure then they find; or the latter day is a Scholler to the former; or a Man may desire to surprise him and cannot, whom he hath no desire to kill if he could; or Mischiefe growes not to maturity in an instant, but by Degrees.

But, *The King might have prevented this repulse, by sending a Messenger before hand, or by comming without such considerable Forces in so unexpected a manner.* How considerable His Majestyes Forces were, and what

hat was His manner of comming to *Hull*, Himelfe hath published in a true satisfactory Declaration long since: if it had been otherwise, how could His Majesty imagine or expect such a repulse against all Laws, beyond all presidents. An impartiall man would rather thinke that Sir *John Hotham* should have taken it to heart, that His Majesty should so farre suspect his Loyalty as to send such a Message before him. This is certain, if there were an omission in point of discretion or good manners, it was in Sir *John Hothams* part, who was privy to his own resolutions: and though he had forgotten his Allegiance, yet in point of Courtesy, he ought to have given His Majesty a fair advertisement. It is very hard the Observer should goe about to reduce his King to the condition of an ordinary Passenger, that must send his Harbinger before to try whether he may have entertainment at his Inne or no.

*Nondum finitus Orestes*, His circumstances are not yet done; He addes, *the things remaining at* Hull *in the Kings trust for the use of the Kingdom were Arms, & by consequence of more danger then other kind of Chattells. If I intrust my cloake to anothers custody, I may not take it again by force, but if it be my sword, and there is strong presumption that it may be drawn upon me, I may use any meanes to secure it.* I wish all the Observers Faction had been of his opinion in one point; His Majesty and many of His good Subjects have been plundered deeply, and have had both their Cloaks and their Coates &c. taken away by force, wherein they challenged a right of interest, which is more then trust. Still the Observer builds upon his former extravigants

travigants : His Majeſty is not *Rex ad placitum* one that hath meerely the cuſtody of Regall power, as the Lord Keeper hath of the great Seale, or as the Obſerver may give his Cloake to his Neighbour to hold : but he is the very owner and Poſſeſſor of Soveraignty to him and to his Heires ; and this not by the antecedent truſt, nor by the guiſt of the People, but by the goodneſſe of God. It would be known what preſumptions the Obſerver had that the ſword ſhould be drawn upon him ; except he that hath given his Superiour a boxe on the eare may lawfully diſarm him when he hath done, for fear leaſt being provoked he ſhould ſtrike again. The Obſerver intimates no leſſe, *Whether is more probable at this time, that the King is incenſed againſt the Parliament or the Parliament againſt the King* ? That very Argument which he uſeth here is ſufficient to convince himſelfe. What is the thing detained ? The Magazine. To whom doth the right of Armour belong ? To the King alone and not to the Parliament ; witneſſe a Parliament it ſelfe 7. *Edvardi primi* : much leſſe to the Obſerver or Sir *John Hotham*. *Uzza* was ſmitten dead for preſuming but to take hold of the Arke of God : God will rather have the Arke of the Church or Commonwealth to ſhake and totter under his own immediate protection, then to have ſuch men preſume to lay hold on it, who have no calling from him.

ag 43.

2. *Sam.* 16.

There is onely one ſaving circumſtance left behind, Heare it, *The Kings intereſt in* Hull *is not ſuch an intereſt as in other movables, neither is the Kings inteſt taken away, theſame things are reſerved for him in better hands : and if it were the ſame, yet the State*

hath

*hath an intereſt Paramount in caſes of publicke extremity.* The State hath an intereſt *Paramount*; what State? have we any State in *England* without the King? the Obſerver is ſtill in his old dreames. Well, what is the intereſt of this imaginary State? an imaginary intereſt. *An intereſt Paramount in caſes* of extremity. What a mixture of pleas is here? extremity is the plea of private Perſons. In caſe of extremity where a Man can not have recourſe to the Magiſtrate, every Man becomes a Magiſtate to himſelfe: an Intereſt *Paramount* is the right of Superiour Lords. But firſt, here was no ſuch extremity, if there had, ſtill his plea is ſtarke naught: neceſſity doth arme a private Man againſt a Thiefe, but not authorize a private Man to diſarme a lawfull Magiſtrate. His other plea of an intereſt *Paramount* is well worſe; If the People (to comply with his own ſenſe,) have an *intereſt Paramonnt* in whatſoever the King holds either *jure Coronæ*, or *jure Perſonæ*, then they are the Soveraigne, and he but a Subject. But it *was reſerved for him in better hands.* Reſerved for the King? how doe you meane? as *Tophet* is ſaid to be *prepared for the King*; that is to ſhoot at the King at *Edgehill* or elſwhere: otherwiſe I do not ſee how it was reſerved for the King. This plea or the like, might ſerve a highway Robber or any Oppreſſor, to ſay it is taken into more needfull hands, or into their hands that knew better how to uſe it; or that it was but borrowed, and ſhould be repayed (*at the Greek Calends.*) None ſo fit to judge in what hands a thing ſhould be kept as the true owner of it. *But the Kings right is not the ſame in* Hull *that it is in other moveables.* True he hath

not the same right of property or possession to sell it, or give it, but he hath a right of Dominion, and Soveraignty, & protection, which is altogether inconsistent with his exclusion or shutting out of *Hull*. If he be held out of it by force, he is a King *de jure*, but not *de facto*, even as he is King of *France*, or at least of *Normandy Aquitaine* &c. or as the King of the Romans is King of *Rome*. The King hath another interest in *Hull* beside that of Dominion: other Townes are indebted to the King for their Protection, but this Town for its very Foundation. The Crown purchased it when
*Camden.* it *was capable of nothing but beards of Cattell and flocks of sheepe*. The Crown builded it, the Crown indowed it with Privileges & Possessions, made it a distinct County and able to support such a Dignity, the Crown fortified it and made it so strong as it is: and was all this done with an intent to be thrust out of it? O that *Edward* the third who builded it, or *Henry* the eight who fortified it with Blockhouses, were but in it for a day or two, with a Regiment of their old Cavaleers to try who should be King of *Hull* and *Humber*. The proper name of it is not *Hull*, but *Kingston upon Hull*. The Observer doth well to decline the right name, for according to his notions, it may be called *Kingston per Antiphrasin*, because it is none of the Kings Town.

If the circumstances will not justify the action, the Observer flyes to the Common Sanctuary of Transgressours; a good intention: so he goes on, *The next thing considerable is the Parliaments intention. If the Parliament have hereupon turned any of the Townes Men out of their estates, or claimed any interest*

in

*in it themselves, or have dissesed the King, utterly denying his right for the future, or have made any other use of their possession, but meerly to prevent Civill war, and to disfurnish the Kings Souldiers of Arms and Ammunition, Let the State be branded with Treason: but if none of these things be by any credit, though their Enemies should be Judges, the essentiall property of Treason must needs here be absent in this Act.* There needs no Enemies to be made Judges; if it were before a Court of *Areopagites*, this plea would be laughed at or hissed out of Court. How shall we judge of Mens intentions best, by their words or by their actions? *who ever Proclaimed in the Streets that he had rotten Wares to sell?* Who ever confessed that his meaning was naught? Mens intentions may be pleaded at the Barre of Conscience before God for mitigation, not at the Barre of Justice before Man for Justification. Neither is it likely that Sir *John* and his Partners had all the same Intentions; their Actions speak their Intentions sufficiently. And admitting their Intentions were good, yet that cannot justifie an unlawfull Action; *They shall put you out of the Synagogues, yea, whosoever killeth you, will think he doth God service*: Those Persecuters had good Intentions, but their Actions were starke naught. You say, *they claimed no Interest*, yet your selfe claime an *Interest Paramount* for them. You say they disseised not the King, because they denyed not His Right for the future; as if there might not be a disseisure without such a deniall. You say *they made no other use of the possession*: The Inhabitants say, they made other use of their Houses and dwelt in them; They made other use of their Victuals and payd

*Tully.*

*Iohn 16. 2.*

not for them: The Merchants say, they made other uses of their Wines, Spices, and Wares, and sold them, and tooke Money for them: The Countrymen say they made other use of themselves, and their Servants, and their Goods, and disposed them as freely as if they had been their own: The whole Country complains, That *Hull* hath been used as a Nest and Refuge for seditious Persons, A Seminary of Warre, to the great dammage of the Subject thereabouts, besides all the blood that hath been spilt upon that occasion; Whom shall a Man trust, the Townesmen, or the Observer? But you say, They *turned none of the Townesmen out of their Estates*; Perhaps not so soon as you Writ; Either there are Lyars, or some Mens eyes were more upon *Yorkminster* and *Cawood-Castle*, then upon *Hull* or any Houses in *Hull*: But since, that Faction hath turned out whomsoever they either disliked or suspected, and have seised Mens Estates at their pleasure, and sent out their Emissary Legions roming and Plundring about the Country, as if *Sathan* were sent out from the face of the Lord, to scourge the World; *Trojan* or *Tyrian*, Papist or Protestant, all was fish that came to their Netts. And if there can be no forgiveneſſe of sinne without restitution, some of them have a great account to make either in this World, or in the World to come. He tells us, this was the onely means *to prevent Civill Warre, and to disfurnish the Kings seducers of Arms and Ammunition*: But the truth is, this hath been the onely Source and Fountain from whence all our Civill Warres have sprung. Whether the King or Kingdome have been seduced, and by whom, the God of Heaven will discover? I would every Eng-

lishman

liſhman had it ingraven in his forehead, how he ſtands affected to the Commonwealth. We Beetles did ſee no ſignes of civill Warre, but all of Peace and Tranquillity: but the Obſerver and his Confederates being privy to their own plots, to introduce by the ſword a new form of Government both into State and Church, might eaſily foreſee, that they ſhould ſtand in need of all the ſtrength, both in *Hull* and *Hell* and *Halliſax* to ſecond them: whereof yet all true Engliſhmen do acquit the Parliament in their hearts deſires; though the Obſerver be ſtill at his old ward, ſhuffling Sir *John Hotham* out, and the Parliament in, ſo changing the ſtate of the queſtion. But what weight that conſideration hath, follows in his next and laſt Allegation.

*Sir* John Hotham *is to be looked on as the Actor, the Parliament as the Author, in holding* Hull. *And therefore it is much wondred at, that the King ſeems more violent againſt the Actor, then the Author, but through the Actor, the Author muſt needs be pierced, &c.* And *if the Parliament be not virtually the whole Kingdome it ſelfe, If it be not the Supreme Judicature as well in matters of State, as matters of Law: If it be not the great Councell of the Kingdome as well as of the King, to whom it belongeth by the conſent of all Nations to provide in extraordinary caſes,* Ne quid detrimenti capiat Reſpublica *; Let the brand of Treaſon ſtick upon it: Nay if the Parliament would have uſed this forcible means, unleſſe petitioning would not have prevailed, or if the grounds of their Jealouſie were meerly vain, or if the Jealouſie of a whole Kingdome can be counted vain; Let the reward of Treaſon be their guierdon.* Hitherto the Obſerver

like

like the wily Fox, hath used all his sleights to frustrate the pursuit of the Hounds: but seeing all his fetches prove in vain, he now begins to act the Catte, and flyes to his one great help, to leape up into a Tree, that is, the Authority of Parliament, *ut lapsu graviore ruat*, that he may catch a greater fall. By the way the Observer forgets how the King is pierced through the sides of Malignant Counsellers.

Three things are principally here considerable. First whether Sir *John Hotham* had any such Command or Commission from the Parliament. Secondly, if he had, whether he ought to have produced it? Thirdly, supposing he both had it, and produced it, whether it be valid against His Majesty, or whether an illegall Command do justifie a Rebellious Act.

To the first of these. I take it for granted, That a Commission, or an Ordinance for Sir *John* to be a meer Governour of *Hull*, doth not extend to the Exclusion of His Majesty out of *Hull*, nor Warrant Sir *John* to shut the Gates against His Soveraign: if it did, every Governour might do the same, and subordinate Command might trample upon Supreme. Neither can a posteriour approbation warrant a precedent excesse; for this is not to authorise, but to pardon, the sole power whereof is acknowledged to be in His Majesty, without any sharers. To the first question therefore, the answer is, Sir *John Hotham* had no such Warrant or Commission from the Parliament: He himselfe confessed, That he had no positive or particular Order. How should he know of His Majesties comming, by instinct, or a Prophetical Spirit? A negative can not, ought not to be proved: the proofe rests

wholly

wholly on Sir *Johns* side, and can be no other then by producing the Ordinance it selfe, or his instrument whereby he can receive the sense of the House from *Westminster* to *Hull* in an instant: If he have not a precedent Ordinance to shew, it is in vain to pretend the Authority of Parliament.

To the second question. Admitting, but not granting, that he had such an Ordinance, whether could it be availeable to him, being not produced, when it was called for and demanded so often by His Majesty? *De non apparentibus, & non existentibus eadem est ratio*, Whether there was no such Ordinance, or no such Ordinance did appeare, is all one both in Law and reason; He that can reade and will not make use of his Clergy suffers justly: He that hath a Warrant and will not produce it, may cry, *Nemo læditur nisi a seipso*, No Man is hurt but by himselfe. A known Officer so long as he keeps himselfe within the sphere of his own activity, is a Warrant of himselfe: But he that it imployed extraordinarily, or transcends the bounds of Common Power, must produce his Authority, or take what falls. Sir *John* hath not yet gained so much credit, that his *ipse dixit*, his word should be a sufficient proofe, or his Testimony in his own case taken for an Oracle.

Thirdly, admitting that Sir *John* had such an Ordinance, and likewise that he did produce it, (for if we admit neither, he can prove neither,) yet the question is how valid this Ordinance may be as to this act. I doubt not at all of the Power of Parliament, that is, a compleat Parliament, where the King and both Houses doe concurre: but an ordinance without

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the King, against the King, alters the case; this may have the Authority of both Houses perhaps, but not of a complete Parliament. Secondly the Power of both Houses is great, especially of the Lords as they are the Kings Great Councell, and in that relation are the Supreme Judicature of the Kingdome: but before the Observer said it, I never thought the Commons did challenge any share of this Judicature, except over their own Members, or preparatory to the Lords: or that they had power to administer an Oath,
eb. 6. 19. which the Apostle saith *is the end of all strife*; who ever knew any Judicature without power to give an Oath? This makes the Observers new devise, *of the people meeting in their underived Majesty to doe justice*, a transparent fiction. It is not the Commons, but the Lords or the Kings Councell that challenge Supreme Judicature. But take both Houses with that latitude of Power, which they have either joyntly or severally, yet His Majesty saith they have no power over the *Militia* of the Kingdome, or over his Forts or Magazines: he avoucheth for it the Common Law, Statute Law, Presidents, Prescriptions; we have not yet heard them answered, nor so much as one instance, since the beginning of this Monarchy given for a president of such an Ordinance, or of any new Ordinance binding to the Kingdom, without his Majestyes concurrence, in Person or by Commission. If the Observer have any Law, or President, or Case, he may do well to produce it: if he have none, he may sit down & hold his peace; his remote inconsequent consequences drawn from the Law of Nature are neither true nor pertinent. Yet I never heard that Sir *John* did

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allege any authority from the House of the Lords, but from the House of Commons onely. This brings the Parliament still into a straiter roome; as if it were *totum homogeneum*, every part to bear the same name with the whole: so he may give the Authority of Parliament to a particular Committee, or perhaps to a particular Member. He saith it is (virtually) *the Kingdome*. Not so, it is virtually the Commons of the Kingdom: not to all intents neither, but to some purposes. He addes, that it is the *great Councell of the Kingdom, to which it belongs to provide that the Commonwealth receive no prejudice*. It is a part of the Great Councell, and should provide for its safety, as the grand inquest doth for the whole County; by finding out the dangers and grievances, and proposing remedyes: but to prattle of a Majesty or plenitude of Soveraigne Power, derived now at this time of the day from the People, is to draw water out of a Pumice, or to be mad with reason.

I have now answered all that the Observer hath brought throughout his Booke, either concerning *Hull* or Sir *John Hotham*. Now will he heare with patience what *Hull* Men say? They say that Sir *John* hath been a prime occasion of these Distempers, as the most severe and zealous Collector of 1634. and Ship-mony that ever was, in his Sheriveralty, a president to the rest of the Kingdome, not onely an Executor of the commands of others, but also a Plotter and Contriver of this businesse: That he hath had, not Moneths mind, but sixteen yeares mind to the Government of *Hull*, (ever since the Wars with *Spain*) 1635.

upon all occaſions, and as an introduction to his deſignes hath gotten the Traine bands of *Hull* added to his Regiment: That his Friends have been the Raiſers and Fomenters of thoſe Feares and Jealouſies of the ſurpriſing of *Hull*, ſometimes by the Lord of *Dunbarres* Men that were trained under ground, (ſurely they were not men, but Serpents Teeth that ſhould be turned into armed Men,) ſometimes by Mr. *Terret* a *Lincolnſhire* Gentleman and his Troopes of Horſe; a fine deviſe indeed to have ſurpriſed *Hull* on a ſuddain, with horſe, and with horſe from *Lincolnſhire*, who knows how they ſhould have got over *Humber*, unleſſe they were winged? They ſay that before ever the Kingdome took any notice of a breach between the King and the Parliament, Maſter *Hotham* openly divided them at *Hull*, *You that are for the King ſtand there, and they that are for the Parliament ſtand here*; did he know nothing then? judge you. They tell who it was that threw away His Majeſtyes Letter in ſcorn, and told the Major of *Hull* it was worth nothing: who it was that commanded the Burgeſſes upon paín of Death to keep in their Houſes, and not to appeare when His Majeſty repaired to *Hull*: who it was that cauſed the bonefires to be put out upon the day of His Majeſtyes inauguration upon pretended fear of the Magazine; whereas at the ſame time his Souldiers had a great fire under the very Walls of it: who it was that deſired of the Townes Men of *Hull* a certificate to the Parliament, that His Majeſty came againſt *Hull* in an Hoſtile manner, with greater numbers then he had; which was refuſed by the greater and ſounder part, as

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good reason they had, both because it was untrue, and also because during all the same time they were confined to their Houses upon pain of Death: who it was that administred an Oath or Protestation to the Townes Men of *Hull*, so directly opposite both to their Oath of Allegiance, and to the Oath which they take when they are admitted Burgesses or Freemen of that Corporation. They say Mr. *Hothams* Motto of his Cornet is, *For the publick liberty*: but that it was not for the publick Liberty either for him to promise the Townes men that none should be troubled with billeting Souldiers against their wills, and so soon as he was gotten into *Hull* to fill their houses with Billiters, and tell them it was Policy of State to promise fair till they were in possession; or for his Father to hold a Pistoll to the brest of the Kings Lieutenant, to beate and imprison their Persons, to banish them from their habitations, to drown their Corne and Meddow, to burn their Houses, to robbe them of their goods, and allow the owner but ten pounds out of a thousand, for the maintenance of himselfe, his wife, and Children; to suffer his Officers to charge an honest Woman with felony, for comming into her own house, because her Husband was a Delinquent, and Sir *John* had dispoiled his goods. If you desire to know where was the first forcing of billets? it was at *Hull*: where was the first plundering of goods? at *Hull*? the first drowning of Grounds? at [a] *Hull*: where was the first burning of Houses? at [b] *Myton* neare *Hull*: where was the first shedding of blood? at [c] *Anlaby* near *Hull*; and to aggravate the matter in a time of Treaty and expectation of Peace.

[a] *July* 5.
[b] *July* 9.
[c] *July* 27.

They say the first men banished from their Habitations, were Mr. *Thornton*, Mr. *Cartwright*, Mr. *Perkins*, Mr. *Faireburne*, Mr. *Kerny*, Mr. *Topham*, Mr. *Watson*, Mr. *Dobson* of *Hull*. They say the first Imposition of four pound a Tunne upon some kind of Commodityes was at *Hull*: and wish that the Father had been translated into *Lincolnshire* with the Sonne, that *Yorkeshire* might have sung, *Latentur Coeli &c.*

You have seen what they say, whereof I am but the Relater, if it seem too sharp, *blame the Pellican and not me*. Now I must crave a word with the Towne. Besides the oath of Allegiance which every good Subject hath taken or ought to take, every Burgesse of that Town takes another Oath at his admission, to keep that Towne and the Blockhouses to the use of the King and his Heires, (not of the *King and Parliament*.) I cannot now procure the Copy to a word: but I shall set down the like Oath for *York*: and of the two, the oath of *Hull* is stricter. I desire the Londoners and all the strong Townes in the Kingdom, who I conceive have taken the same form of Oath, to take it into serious consideration for their Soules health.

*This heare ye my Lord Major, Mr. Chamberlen, and good Men, that I from hence forth shall be true, ſty and true to Our Soveraigne Lord the King and to this Citty. And this ſame Citty I ſhall ſave and maintein to our ſaid Soveraigne Lord the King His Heires and Succeſſors &c. So helpe me God.*

The Oath beginnes as solemnely as that of the Romane

name Feeciall, *Heare O Jupiter, and thou Juno Quirinus thou &c.* And being affirmative, though it bind not a Townes-man *ad semper*, to be alwayes upon the Walls in Arms; yet it binds him *semper*, to be ready upon all necessityes, it binds him never to doe any thing that may be contrary to his Oath. And was not that Protestation contrary, which was by Sir *John Hotham* imposed upon the Inhabitants of *Hull* and by them taken?

*Forasmuch as the King being seduced by wicked and evill Counsell, intends to make warre against this Towne of* Hull, *who have done nothing but by Order of Parliament: We therefore whose names are here under written, doe protest before Almighty God and all good Christians, to be ready with all cheerfullnesse and willingnesse to our powers with our Lifes and Estates, to defend the same against all opposition whatsoever.*

Observe, first what Gudgeons he makes them swallow: How doe they know that the King is seduced? Sir *John tells them so*: Or that His Majesty intended to make Warre against *Hull*, unlesse because their Consciences told them they had given him just grounds to doe so? It was Sir *John Hotham*, not the Town of *Hull*, which was accused by His Majesty. Observe how he makes his act, the act of the whole Town, *who have done nothing*: and yet they poore men were mued up in their Houses whilest it was a doing. Lastly how they affirme that he hath done nothing but by order of Parliament: yet it is certain many

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who were required to protest, and were banished for not protesting, I believe not one of them all did ever yet see this Order: (how could they see that which never was?) for these men to know that he had an Order, to know that he did not exceed his Order, is miraculous. Upon these feined grounds they build their solemne Protestation: what to doe? *To defend* Hull *against all opposition whatsoever*, His Majesty is not excepted: and the first words, *Forasmuch as the King being seduced &c.* shews that His Majesty is principally intended. *To save and defend the Town to Our Soveraigne Lord the King and His Heires*; So saith the Oath: *To defend it against all opposition whatsoever*, yea of the *King seduced*; so saith the Protestation. Now if these two be not repugnant directly one to another, if every man that hath taken this Protestation, be not directly perjured; *Reddat mihi minam Diogenes*, Let him that taught me Logique give my mony again. What is this but to intangle and ingage God in Rebellion, and to put his broad Seale to Letters counterfeited by themselves? They suffered much who were banished for not protesting: but they more who stayed at home with such hazard of their Soules. Some men may be so silly as to aske whether of these two ingagements, the Oath or the Protestation ought to be kept? The case is clear the former Obligation doth alwayes prejudge the latter: the latter Will is best, but the first Oath: The Protestation is plaine perjury, and to persevere in it, is to double the sinne: *Dura promissio, acerbior solutio*, to make the Protestation was ill, to keep it is worse; *David* protested as much against *Nabal*,

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yet upon better consideration, *ensem in vaginam revocavit*, he retracted it.

Secondly, an Oath made by one that is not *sui juris*, who hath not power over himselfe, in that which he sweares, is voide even when it is made: As for a Child or a Wife to sweare against their Filiall or Conjugall Duty, or for a Subject to sweare against his Allegiance, (and such an one was that Protestation,) this is sufficient to make it voide. To which much more might be added, as that the former Oaths were grounded both upon a naturall and a civill Obligation, were freely assumed, but this Protestation was meerely forced: the former were taken before a lawfull Magistrate, the latter before an Intruder, who had no power to administer such a Protestation. But I have dwelt long enough on this point: I wish our great Cities who have taken the like Oath may lay it to heart.

In the close of this point, the Observer tells us, that if *Faux had fallen by a private mans sword in the very instant when he would have given fire to his train, that act had not been punishable*. What then? will he compare the Soveraigne Magistrate to a Powder Traytour; or his undermining the Parliament House with the King's repairing to his own Town; or his blowing up His Majesty and the Peeres, with the Kings requiring his own goods. This is false and painted fire, the traine was laide the other way,

*Quicquid ostendat mihi sic, incredulus odi.*

The next considerable Observation is concerning *Irish Rebellion*
*Ireland.*

*Ireland*: A Tragicall Subject which may justly challenge our teares and prayers. The Observer falls upon this in the 17. 29. and 36. pages of this Treatise, and likewise in his Observator defended, and other Discourses lately published, either without a name or under another name. The condition of *Ireland* is so much the more to be deplored, by how much the lesse it could then be expected: when Religion began to shew its beames over the face of that Kingdom, yet without any pressure to the Conscience of any man, except such as were introducers of innovations into the publike service of the Church; when the Law had obteined a free current throughout the whole Island: when the scale of equity gave the same weight to Gold and Lead, and the equall administration of Justice to Rich and Poore, did secure the inferiour Subjects from oppression; when there was a dayly growth of all Arts and Trades and Civillity; when that which was formerly so great a burthen to this Crown in the ordinary accounts every year, was now become able not onely to defray its own charge, but also make a large supply to His Majestyes Revenue; when all the orders of that Kingdom had so lately given an unanimous expression of their Zeal and Devotion to His Majestyes Service: That on a suddain the Sky should be so totally overcast, with a pitchy cloud of Rebellion, That all our fairest hopes should be so unexpectedly nipped in the bud; deserves a little inquisition into the true reason of it.

Some who have long since learned, that *a dead man cannot bite*, are bold to cast it on the Earle of *Straffords* score; how justly let these two considerations witnesse.

seſſe. First that the prime Actors in this Warre, were as great oppoſers and Proſecutors of the Earle: Members of the ſame Faction may feine quarrells among themſelves in publike, only to gain upon a credulous party, and to inable themſelves to doe more miſchief, but this never proceeds ſo far as blood. Secondly, looke who they are in *Ireland* whoſe Heroicall actions, in ſuch a ſcarcity of neceſſary ſupplyes, have mainteined the Engliſh and the Proteſtant cauſe, and you ſhall find very many of them the intimate Friends of the Earl of *Strafford*, and principall Commanders in the Iriſh Army called the Popiſh Army, which was ſaid to be intended againſt *England*: if you inquire further into the long Robe for Counſell, you will find the ſame obſervation made good. Then let the Earles aſhes reſt in peace for this.

Others bred out of the excrements of thoſe Giants who made Warre againſt Heaven, caſt this upon his ſacred Majeſty. (To uſe the Obſervers words) *An abſurd, unreaſonable, incredible ſuppoſition*, That he who may boaſt more truely then *Pericles* could upon his death-bed, that never one *Athenian* did wear black for his ſake: Now, as if all his former goodneſſe were but perſonated, or *Neroes* Soule had tranſmigrated into his Body, ſhould delight in the blood and ſlaughter of his Subjects. To what end? to exhauſt his Treaſure, loſe his Revenues, weaken his Friends, & deprive himſelfe of the certain aſſiſtence of his Subjects, at a time when he conceives it to be ſo uſefull for his affaires. They had need be ſtrong prooſes indeed, that can incline the judgement of any rationall Man, to ſuch a ſenſeleſſe Paradox. Let us view them.

First, *The Rebells ſaid ſo, They pleaded the Kings Authority, They called themſelves the Queenes Army.* Is not this a doughty Argument? By the ſame reaſon we may accuſe Chriſt, as the Patron of all Schiſmaticall Conventicles, becauſe they ſay, *here is Chriſt, and there is Chriſt*, ſome out of a credulous ſimplicity, others out of a deep ſubtlety: or aſcribe the Primitive Hæreſies to the Apoſtles, becauſe the falſe Teachers did uſe their names, to make their Hæreſies more current: So Sir *John Hotham* and *Serjeant Major Skippon*, doe pretend the Authority of King and Parliament; the King diſclaimes both the one and the other: many who are now in Arms againſt the King, do verily beleeve they fight for the King, againſt ſome bad Counſellers, whom they cannot name. The ſame Rebells ſometimes pleaded an Ordinance of Parliament. Nothing is more uſuall with Pirates then to hang out a counterfeit Flagge.

A ſecond reaſon is, *Sundry Commanders of note were paſſed over into* Ireland, *by his Majeſtyes warrant, who were ſeen preſently after in the head of the Rebells.* His Majeſty hath long ſince anſwered this, and demanded reparation of ſuch a groundleſſe Calumny. I onely adde two things. The one how ignorant our intelligencers are of the State of *Ireland*, to feign ſuch a deviſe of a Brother of Sir *George Hamletons*: yet Sir *George* hath no Brother there but Sir *Fredericke*, who was then and long after in Manour *Hamleton*, as oppoſite to the Iriſh Rebells as the Obſerver himſelfe. The other is, if this were true, yet it were but a poor collection; There are many who have had not onely Warrants under the Kings hand, but Let-

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ters Patents under his Broad Seale, who owe their very subsistence to His Majestyes bounty; yet have made a shift to creepe from his bosome, out at his sleeve. If such a thing had been, (as it is an impudent Fiction;) yet these are neither the first nor the last, that have betrayed the trust of a Gracious King.

The third and last reason is, because His Majesty was not so active to represse this insurrection, nor so ready to proclaime them Traytours: so the Observer, *He that will not accuse the King of zeal against the Irish Rebells, yet he may truely say, there is not the same zeal expressed that was against the Scots &c. The proffered supplyes of the English and Scottish Nation are retarded, opportunityes neglected, nice exceptions framed.* 1. Obser. pag. 11. This plea is pertinent to make the King, though not the Contriver, yet the Conserver of that Rebellion: but is as false as the Father of Lyes, from whom it proceeds Hear His Majesty himselfe, *The Irish Rebells practise such unhumane and unheard of outrages upon our miserable People, that no Christian eare can hear without horrour, nor Story paralell. And as we looke upon this, as the greatest affliction it hath pleased God to lay upon us, so our unhappinesse is increased in that by the distempers at home, so early remedyes have not beene applyed to those growing evills, as the necessity there requires. And we acknowledge it a high Crime against Almighty God, and inexcusable to our good Subjects, if we did not to the utmost imploy all our powers and faculties, to the speediest and most effectuall assistence and protection of that distressed People.* Declarati upon the R monstrance pag. 21. He conjures all His loving Subjects to joyne with him in that Worke, He of-

fers to hazard his ſacred Perſon in that Warre, To ingage the revenues of his Crowne; what can the Obſerver deſire more? perhaps he may ſay theſe Offers came late and unſeaſonably. Then let us looke backward to His Majeſtyes Proclamation of the firſt of *January* 1641, ſoon after his return from *Scotland*, in a time of ſo great Diſtractions here at home, when that Remonſtrance which uſhered in all our Feares and Troubles, was ready to be publiſhed. Let them ſhew, that any Courſe was preſented to His Majeſty before this, either by his great Councell to whom he had committed the care of it, or by his Lords Juſtices and Councell of *Ireland*, who were upon the place: *We abhorring the wicked Diſloyalty and horrible Acts committed by thoſe Perſons, do hereby not onely declare our juſt indignation thereof, but alſo do declare them and their Adherents and Abetters, and all thoſe who ſhall hereafter joyne with them, or commit the like acts on any of our good Subjects in that Kingdome, to be Rebells and Traytours againſt our Royall Perſon, and Enemyes to our Royall Crown of* England *and* Ireland, *&c.* Commanding them to lay down Arms without delay, or otherwiſe authorizing and requiring his *Lord Juſtices* there, and *the Generall of His Majeſties Army*, to proſecute them *as Traytours and Rebells with fire and ſword.* But if we look further ſtill; when the firſt tydings of this curſed Rebellion came to His Majeſty in *Scotland*, he did not ſleep upon it, but preſently acquainted both His Parliaments with it, required their aſſiſtence, recommended it to their care, promiſed to joyn in any courſe that ſhould be thought fit. Neither did His Majeſtyes care

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reſt there, but at the ſame time he named ſix or ſeven Colonels in the *North* of *Ireland*, to raiſe Forces inſtantly to ſuppreſſe that inſurrection, which was done accordingly: and they ſay, if ſome had been as active then, as they were made powerfull by the confidence of that part of the Kingdome, in all probabillity that Cockatrice egge had been broken ſooner then hatched; before that ever any of the old Engliſh, and many of the meer Natives had declared themſelves. In purſuance of theſe premiſes, when the Act for Undertakers was tendered to His Majeſty, he condiſcended freely to give away all his Eſcheats to this Worke (an Act not to be paralelled among all his Predeceſſors:) yea though ſome clauſes in that Statute, (eſpecially for the limitation of His Majeſtyes Grace,) might ſeem to require a further diſcuſſion. The wants of *Ireland* and the preſent condition of *England* doe ſpeak abundantly, whether thoſe great Summes of Mony, or thoſe great Forces raiſed for that end, have been imployed to the uſe for which they were ſolely deſigned: yet *Rabſhekeh* will not want a pretext to raile at good *Hezekiah*, though Spider like, he ſuck poiſon out of the ſweeteſt Flowers. Surely there muſt be ſome fire whence all this ſmoake hath riſen. Perhaps they conceive that His Majeſty was not willing without good adviſe, upon the firſt motion to put all his ſtrong Forts in the North of *Ireland*, into the hands of the Scotch Army; can you blame him, conſidering the preſent State of Affaires there? I dare referre it to any mans *judgement* that is not wholy prepoſſeſſed with *prejudice*, whether it was expedient at that time, or conducible to the ſpeedy ſettle-

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ment of *Ireland*, for them to make that demand? To divide a little Army, sixty miles one part from another, as farre as betwixt *London Derry*, and *Carlingford* or the *Newry*, where impassable Rivers and Mountaines, and an uncertain passage by Sea would not permit one part to assist another; was a ready way either to a long Warre, or certain overthrow, and not to bring it to a quick conclusion. Neither did these places stand in need of any addition of Forces to secure themselves, whose Service and Victories against the Rebells, may compare with any Forces in the North of *Ireland*: all their desire was that this Army would but shew themselves the Masters in the Field, to carry the Warre home to the Rebells own doores. Or if they had desired more Garrisons, *Dungannon* or *Charlemount* in the heart of *Tyrone*, had been much more convenient to distresse the Enemy, then to have all their Forces lye scattered up and down the Sea coast. But these things were accorded quickly, and weeke after weeke, and Moneth after Moneth passed before any Forces moved out of *Scotland* for the Reliefe of *Ireland*.

Or perhaps His Majesty was not willing in a preamble of a Bill to Presse Souldiers for *Ireland*, to divest Himselfe altogether of the power of the *Militia* here in *England*: We cannot be contented of late to gather the fruit, unlesse we may break the bough that did beare it, or to quench our present thirst, unlesse we may alter the property of the Fountain. Howsoever to extinguish all questions, His Majesty did freely offer to raise with speed 10000 English Volunteers

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for that Service; or to passe a Bill without any mention of the right, which might do the Work without prejudice to any Person.

What is it then which may in probability be thought the ground of this Rebellion? It requires not so long a search as the head of *Nilus*; for though I deny not, but that the Hen might be sitting, and some Irish have been long plotting such a thing in forreine parts; yet *they sate so farre from their Nests, that they* Guiccardine *could never have hatched it*, without some extraordinary helps. Some say that by weak management, Soveraigne Authority was grown contemptible; or that desperate Estates or crying Debts, did ingage the Ringleaders both in *Ireland* and elsewhere, into such courses; or that Personall quarrells and Revenge might challenge a share. Some say that there was a generall desire to shake off the English Government: but omitting these and the like, there are two grounds visible enough. The one is the Example of the late Covenant of their Neighbour Nation: As the Loadstone drawes Iron to it; so Examples especially if they be successefull; have an attractive vertue and influence. I doubt not but the one went upon much safer grounds then the other in point of Policy, neither doe I desire to argue the Lawfulnesse in point of Justice, being a meer Stranger to their Nationall Laws. This is certain, there was a vast difference in the manner of prosecution, the one being more bloody then the other: which whether it be to be ascribed to their severall Principles, or to some particular and accidentall reasons I leave every man to his own Judgement. This is all I say, That if the one had not piped

piped, in probability the other had not danc

A second reason was a generall apprehension of Jealousies and Feares at that time, That the Liberty both Civill and Religious, of the Subject and of Conscience, and the exercise of their Religion should be quite taken away from them; occasioned by some indiscreet threatnings, and some high-flying Petitions, and nourished and augmented by turbulent and seditious Persons, who perswaded the Common People that there was no security, to be expected, either for Life or for Religion, Soule or Body, without such a generall insurrection. Thus Men plunge themselves into reall dangers, out of fancyed and imaginary Jealousies and Feares.

The next thing in the Observer concerning *Ireland*, is the disparity between the proceedings of the true Rebells in *Ireland*, and the misnamed Rebells here in *England*. *Their actions are all Blood, Rapine, Torture; All Ages, Sexes, Conditions, have tasted of their infernall Cruelty*; Their intentions were to *extirpate Religion*, &c. to *massacre* the English Nation; *their chief Leaders, are Jesuits and meere Bandettos*, &c. Farre be it from me to justify, or so much as qualify those barbarous Acts, which have been committed in *Ireland*. Cruelty is an Argument of a Coward, not of an Heroicall Nature. But it ill becomes the Observer to inveigh against the *Jesuits*, untill he have first taken the beame out of his own eye. He that shall compare *Dolman* or *Parsons* the *Jesuit* with this Observer, either for dangerous positions or virulent detractions, may say *aut Philo Platonizat, aut Plato Philonizat*, Good Wits jumpe. The Observer

doth

doth but ſuppe up what *Parſons* and ſome others had diſgorged before, that he might vomit it up again. When once the Bankes are broken, it is hard for him that was the cauſe of the inundation to preſcribe limits to it. Had the Obſerver and his Partners been as much the Major part of *England* as the Papiſts were of *Ireland*, wee ſhould have ſeen what men they were. In the mean time the Obſerver hath given a Caution, that whileſt Chriſtians remaine in a *Primitive condition*, that is, are the weaker part and want ſtrength, it is diſcretion (not duty) to conceale themſelves. The *Iriſh* Rebellion is againſt the Authority of the King, not againſt his Perſon, this both againſt his Perſon and Authority: the *Iriſh* ſeek a Liberty of Conſcience to themſelves, theſe not onely a Liberty, but to impoſe a neceſſity upon all others: the *Iriſh* deſire a capacity of Preferment, yet at his Majeſties diſcretion to cull out whom he pleaſeth; theſe Men will be their own Carvers and not leave the King ſuch a latitude: The *Iriſh* fight againſt Men of another Religion, of another Nation; We like wild Beaſts fight Proteſtant againſt Proteſtant, Engliſhman againſt Engliſhman, Brother againſt Brother, Parent againſt Child: they fight for to recover what they had loſt; we fight to loſe what we have: they know what they fight for; the greateſt part of us fight for we know not what: like the two *Paduan* Brethren the one ſuppoſing he had as many Oxen as there were Starres, and the other ſuppoſing that he had a Paſture as large as the Heavens; the mortall quarrell between them was, whether the ones conceited Oxen might feed in the others ſuppoſed ground. But be-

lieve it, they that cannot make rationall Men understand, why they put them by the eares together, have secret reasons to themselves, that they dare not manifest to others.

The last passage concerning *Ireland*, is an Answer to His Majestyes Objection, *That if the Major part of both Houses in* Ireland, *should vote a danger to their Religion, or that Kingdome, and thereupon by Ordinance settle the* Militia, *in the hands of such Persons as they may confide in, of the Romane Communion*; they had the same grounds and pretences that our Men have. The Observer answers, That *this is improperly urged, for* England *and* Ireland *are the same Dominion. That there is as true and intimate an Union betwixt them, as betweene* England *and* Wales. *And though they doe not meet in one Parliament, yet their Parliaments to some purposes, are not to be held severall. And therefore if the Papists in* Ireland *were Stronger and had more Votes, yet they would want Authority to overrule any thing voted and established here in* England. *The reason why the minor Part in all Suffrages subscribes to the Major, is that blood may not be shed, for in probability the Major part will prevaile, else Strife and Bloodshed would be endlesse, wherefore the Major part in* Ireland *ought to sit down and acquiesce, because* Ireland *is not a severall Monarchy from* England. *Nor is that a Major part of* Ireland *and* England *too, for if it were, it would give Law to us, as we now give Law there, and their Statutes would be of as much virtue here as ours are there, &c.*

Such Doctrin as this, hath helped to bring poore *Ireland*, to that miserable condition wherein now it

is. Will you heare with Patience, what the *Irish* themselves say of this? If any Ordinance may be imposed upon us, without an approbative, or so much as a receptive power in our selves, where is our Liberty then? Our Government is meerely Arbitrary, our condition is slavish. We had *Magna Charta* granted to us as well as *England*, and since that time, all other Liberties and Privileges of the *English* Subject: Shall that which is ours be taken from us without our own Act, or our owne Fault; and we never heard either in our Persons or by our Proctors? We desire the Observer to remember what he said before, *That which concerns all, ought to be approved by all*; We have no Burgesses nor representatives there: and that it is *unnaturall for any Nation to contribute its own inherent puissance, meerely to support Slavery.* Let the Definition be according to the Major Part of the Votes; but shall the Minor Part be denyed a Liberty to discusse or vote at all? As we deny not but the Kingdome of *Ireland* is united and incorporated to the Crown of *England*: So we understand not, by what right any power derived from the *English* Subject, can extend it selfe over us. That power which they have over us is relative, as they are the Kings Councell, wherein he confides: or by virtue of his Delegation to his Judges representing his own Person. Thus they.

For further Answer. First, this is a meere trifling and declining of the Force of His Majestyes Argument, which lyes not in this, whether *Ireland* be a distinct Kingdome: but supposing it to be a distinct Kingdome, (as without doubt it either is or

might be,) whether that in such a case as is propounded by His Majesty, it were lawfull for them to assume such a Power contrary to the Law of God and of Nations; or if *Ireland* were as much bigger then *England* as *France* is, (it is no strange thing for a greater Kingdome to be conquered by a lesser,) whether in such a case they might give Law to us, or their Statutes be of as great virtue here, as ours are there, meerely because it is so voted, by the Major part of the representative Body. An absurd incredible Assertion.

Secondly, there is not the like reason of *Ireland* and *Wales*. *Wales* is incircled with the same Sea, a part of the same Island, and originally in the Dayes of the *Brittaines*, a branch of the same Kingdome. *Wales* was incorporated to the Realme of *England* by Act of Parliament 27. *Henrici* 8. *cap.* 26: so was not *Ireland*. *Wales* have their Peers and Burgesses sitting in the English Parliament: so hath not *Ireland*. *Wales* hath no distinct Parliaments of its own: but *Ireland* hath.

Thirdly, as the *Irish* readily grant, that their Common Law is the same with ours: so they will not easily believe, that the *English* Statutes are all of force in *Ireland*. What all? even to an Act of Subsidies? who ever heard that. It is true, there hath been a question moved among some Lawyers, and those perhaps who were not the most concerned or versed in it, of the *English* Statutes, what Statutes and in what cases, and how farre they are binding to the *Irish* Subject? but I have not heard their opinion was so high as the Observers, or that ever the Bell

was

was going out yet. If all *English* Statutes be of force in *Ireland*, what need was there for *Henry* the seventh to make an expresse Statute in *Ireland*, to authorize and introduce all the *English* Statutes before his time to be of force in that Kingdome? this Act had been supervacaneous and superfluous. And since that time we see many Statutes of force in *England*, that are of no force at all in *Ireland*: and many both before and since that time of force in *Ireland*, that have no power in *England*.

Lastly, this Observer might be well one of Father *Garnets* Disciples; when he was asked about the Powder-Treason, whether it was lawfull to take away some Innocents with many Nocents? he answered yes; so it was compensated by a greater benefit or profit, which may perhaps be true sometimes (as in time of Warre) accidentally, in publique and necessary, but not in private and voluntary Agents. So the Observer makes profit and strength, to be the onely rule and measure, of all actions of State: Justice and Piety are banished by an *Ostracisme* out of his *Eutopia*. This is to inslave Reason, and Crown bodily strength; to silence Law and Justice, and to Deifie Force and Power.

The Observer is every where girding at the Clergy; it is well that his new superstition reversed, will allow them that name. Have they not great cause to thank him, as the poor *Persians* did their King, when they were condemned, That he was pleased to remember them? Sometimes he scoffes at the Tribe: There were seditious Schismaticks of all Tribes. Sometimes he derides their Pulpetting, (it may be he likes a

Chaire

Chaire better, because they *teach a Divine prerogative, which none understand but these ghostly Counsellers, who alwaies expresse sufficient enmity and antipathy, to Publique Acts and Facts of Men.* He that accuseth another, should first examine himselfe. I doe not beleeve that ever there was any Divine in the World, that made Kings such unlimited Creatures, as this Observer doth the People. I have read some discourses of this subject, but I did never see any one so pernitious to a setled society of men, or so destructive to all humane compacts, as this *seditious bundle of Observations*, which makes the Law of *Salus Populi*, to be a dispensation from Heaven, for the breach of all Oathes of Allegiance, and all other Obligations whatsoever; which measures Justice by the major part, and makes strength and power the rule of what is lawfull; which gives the People the last Judgement of necessity, and upon this Judgement a power to rise in Arms. If any Divine have unwittingly slipped into any such errours, in not distinguishing between an absolute and respective Soveraignty, (which I can hardly beleeve,) yet the Observer might have held his peace for shame; The one is so intent upon the Law of God, the other upon the Law of Nature, that they both forget the known Laws of the Land.

*he Calling Bishops t Popish.*

Especially he shews his spleen against Bishops, sometimes calling them *Popish Bishops*. If Popery were as ancient as Episcopacy, the Observer might shake his Eares at it to small purpose. Sometimes he stiles them the *Prælaticall Faction*. If that be a Faction which is established by the Fundamentall Law of the Land, and hath ever been a radicated Order of

the

the Kingdom, What may we mean think of his Reverend Co-adjutors and Bu Acomakers, and the rest of that diversified Schismaticall Sect? Sometimes he makes *Levi and Simeon, Hierotheus and Apollo*, the heads of the nine Malignants: I hope the Observer will allow some Government in the Church, either of Councells, or Synods, or Assemblyes, or Consistoryes, or Senates, or Presbyteryes either Diocesan as it is at *Geneva*, or Parochiall as it is in the *Low-Countries*; either of Presidents, or Moderators, or Visiters, Pastors, Doctors Curate or not Curate, Elders perpetuall or Annuall, Deacons, Widows, or some of them for they are not yet well agreed about any of these: In one place Elders are Commissioners to the Seignory, are placed and displaced by the Magistrate, take an Oath of Obedience to the Magistrate; in other places the King hath not so much as the place of a Lay-Elder, except he be chosen. Or perhaps the Observer is for none of all these wayes; but as errant an Independent in the Church, as he desires to be in the Commonwealth. Here are many things very considerable in this businesse.

First, That in doubtfull cases, *Melior est conditio possidentis*, Possession is a strong plea, especially if it be of long continuance, as this of Episcopacy is; ever since Christianity was planted in this Kingdome. This is certain, *British* Bishops have been of Note in Forein Councells, since the second Councell of *Arles*, which is above thirteen hundred yeares; to say nothing of *Aristobulus*, mentioned in the Epistle to the *Romans*, whom some good Authors make a Bishop in this Island. They that shall goe about to shake in peeces

such

such an ancient Institution, which was brought into the Church, either by the Authority, or at least, by the approbation of the Apostles, had need to bring cleare proofes, not blind conjectures, about which they themselves cannot agree one with another. Bishops flourished long in this Kingdom, even when the British Church enjoyed the Cyprian privileges, and acknowledged no subjection to any forrein See whatsoever.

Secondly, That which the Observer saith of Monarchy, that *our Laws are locked and Cabinetted in it, in such manner, that the wounding of the one, is the bleeding of the other*, (though he forget it throughout his Discourse,) is likewise true of Episcopacy, that it is woven and riveted into the body of our Law. Heare a Witnesse beyond exception, *For the Government of Bishops, I for my part not prejudging the presidents of other Reformed Churches, doe hold it warranted by the Word of God, and by the practise of the ancient Church in the better times, and much more convenient for Kingdoms, then parity of Ministers or Government by Synods.* And presently after, *It is worth noting that the Scripture saith*, Translatâ Sacerdotio, necesse est ut & legis fiat Translatio: *It is not possible in respect of the great and neere sympathy between the State Civill, and the State Ecclesiasticall, to make so maine an alteration in the Church, but it would have a perillous operation upon the Kingdome. And therefore it is fit that Controversie be in Peace and Silence.* It would not be forgotten what was cited before, out of *Cartwright*, That as the hangings must be shaped according to the House; so must the Civill Government, be conformed

*Lord Verulams Considerations.*

to

the Government of the Church. The Anabaptists began with Bishops, but at length the Emperour was with them but *Carolus a Gandavo*, Charles of Gant. I leave it to others to Judge by what fate or fortune it comes to passe, beyond the Sea, That wheresoever any other Regiment of the Church takes place, if the favourers of it be the Major part, and have power in their hands, it either finds or makes a popular State; every mans own imagination will supply him with instances. And this may be the reason why *Calvin* (a wise man) in an Epistle to the King of *Polonia*, doth represent, not the Disciplinarian, but Episcopall Government as fitter for Monarchyes. Having shewed the Regiment of the Primitive Church by Patriarkes, Primates, and Bishops, he proceeds thus: *As if at this Day one Arch-Bishop should be over the illustrious Kingdom of* Polonia, *not to domineere over the rest, or arrogate their right unto himselfe, but for orders cause, &c.* And further, *there should be a Bishop in each City or Province, to attend peculiarly to the preservation of Order*, (marke his Reason,) *even as Nature it selfe doth dictate to us, that in every College one ought to be chosen, upon whom the principall care of the College should rest.* Epist. 160.

Thirdly, Episcopacy is not onely ancient and cemented into our Laws, but also was universally received, without any opposition, or so much as a question throughout the whole Christian World, among all sorts of Christians of what Communion or Profession soever they were, *Grecian*, *Latin*, *Russian*, *Armenian*, *Abissine* &c: yea even among those who by reason of the great distance and remoteness of their Countryes, never heard of the Pope, nor of

the name of *Rome*, ever since the Apostles did [illegible] upon the face of the Earth untill this last Centu[ry] of Yeares; so farre is it from being a Relick of Po[pe]ry. And the Observer is challenged to name bu[t] one Church, or so much as one poor Village, through out the whole World, from the Dayes of the Apo[s]stles, till the year of Christ 1500, that ever was go[v]verned without a Bishop; (I except the *Acephali* or such disordered Persons that had no Governmen[t] at all:) or to name but one Lay-Elder, or one Ambu[l]latory Bishop that governed by turne or course in th[e] Primitive times, in the whole Catholike Church before the year 1536, when *Calvine* came to *Gen[e]vah*. We find the proper and particular names of A[p]postles, Evangelists, Bishops, Presbiters and Deacons in the Scriptures, in Councells, in Ecclesiastical Historyes, in the Fathers: if he and all his Friend[s] be not able out of all these Authorities, to name on[e] particular Lay-Elder or ambulatory Bishop; th[e] reason must be, because there never was such a Cre[a]ture *in rerum natura*. And his Elders in Saint *Am[b]rose* and Saint *Jerome*, are much mistaken; how should they be otherwise, the one Authour being a Bishop himselfe, and the other deducing Bishops in *Alexandria* from Saint *Marke*, and telling us plainly (that which we find to be true,) that *without Episco[pa]pall Authority, there will be as many Schismes as Priest[s] in the Church*? The Hierarchists (as he calls them) will be contented to wave all other Authors, and b[e] tryed by either of these. The seven Angells in th[e] *Revelation cap.* 2. & 3. cannot be the seven Chur[ches]; for the Angells and the Churches are plainly distinguishe[d]

*Epist. ad Evagrium*

distinguished, *Rev.* 1. 20: but it must be the seven Bishops of the Churches. These were not Parochiall Churches, each of them had many Pastors, and many particular Flocks. *Beza* confesseth that these Angells were Presidents over the other Presbiters: but he believes not they had a priority of Power, or that this Presidency was permanent, but went by course. If the Government went by turnes, I would gladly know, why one of them is called an Angell more then the other. Surely he that shall reade the seven Epistles, how some of them are commended for their constancy and perseverance in their Government, and others reprehended for suffering Heretick's to continue in their Churches: will find sufficient ground in every one of these Epistles to believe, that they were not changeable every weeke, or Moneth, or quarter of a Yeare: but constant and permanent Governours, having power of Jurisdiction to represse abuses; otherwise why are they taxed for the abuses done in their Dioceses, if it were not in their power to remedy them? And if he will give credit to the Testimony of the Primitive Fathers, he may find both who sundry of these Angells or Bishops were, and also who were their Successors.

*Answ to Sa-ravia p.160*

Fourthly, though in such variety of new Forms of Church Regiment, he hath not expressed himselfe to what Forme he inclines, saving that in one place he speakes of a *Jantto* of Divines, (I cannot think but himselfe would have the naming of them:) yet we will suppose that which we are farre from believing, that a few green Heads see more then all the Fathers, and Councells, and Schoolemen; and that the

Obſervers buſy working braine, could molde a Church better then all the Apoſtles. Notwithſtanding all this, Saint *Auſtins* rule to *Januarius* is very conſiderable, if you will not erre, doe that which I uſe to do, *to whatſoever Church I come, I apply my ſelfe to the Ceremonies thereof*: He would have added the Diſcipline alſo, if there had been ſundry Formes, but there was none but Epiſcopacy then in the world. God is a mercifull God, and lookes upon his Creatures with all prejudices of Education, Habitation, &c: Faction is more offenſive to him, and breach of Charity more dangerous to the Soule, then any unknown errour in Diſcipline: much more where the errour is but ſuppoſed or feined, and the Schiſme apparent. Now for the Diſcipline of the Church of *England*, all Men know and grant that it hath ever been Epiſcopall. In the publick Liturgy of our Church, confirmed by Act of Parliament, we pray for Biſhops: In our Booke of Ordination confirmed by the ſame Authority, it is directly affirmed, as evident by Scriptures and ancient Authours, that *from the time of the Apoſtles there have ever been theſe Orders of Miniſters in Chriſts Church, Biſhops, Prieſts and Deacons*; and that theſe Orders are appointed by the Holy Ghoſt. In our Booke of Articles, which conteins the received doctrin of our Church, (and therefore without doubt comes within the compaſſe of our late Proteſtation,) the ſame Book of Ordination is mainteined, and it is plainely affirmed, That *there is nothing conteined in it, which is either ſuperſtitious or ungodly*. In the Apology of our Church, publiſhed to the whole Chriſtian World, and by all Proteſtant Churches approved

*Artic.* 37.

approved and applauded. We declare *that we beleeve that there be diverse degrees of Ministers in the Church, whereof some be Deacons, some be Priests, some Bishops.* Which being so it deserves some consideration, which King *James* saith in the latter end of his Proclamation for Uniformity, *Such is the unquietnesse and unstedfastnesse of some dispositions, affecting every yeare new forms of things, as if they should be followed in their unconstancy, would make all actions of States ridiculous and contemptible; whereas the stedfast mainteining of things by good advise established, is the weale of the Commonwealth.* I should not inlarge my selfe any further about this Consideration, but for two reasons. The one is, I find it said by some, that *scarce any but Bishops have hitherto mainteined Bishops.* Take only three Testimonies of many; they were all Members of the *English* Church, yet all Strangers, and all had lived in places opposite to Episcopall Government, none of them either Bishops, or their Chapleins, or Expectants. The first is King *James*, the most learned of Kings, *I have alwayes thought that there ought to be Bishops in the Church, according to the Apostolicall institution, and by consequence Divine Ordination.* The second is Learned *Bucer*, a *Germane*, and imployed in the first Reformation of this Church, to read Divinity in *Cambridge*: one that was so opposite to Popery, that after his Death, his very bones were taken out of his Grave and burned by the Papists. He is full in many places, take one. *From the perpetuall observation of the Churches, from the very Apostles themselves, we see that it seemed good to the Holy Ghost, that among the Ministers, to whom the charge*

*Preface t Christian Monarc*

*De reg Christi, cap.* 12.

*charge of the Church was especially committed, some shoulde undergoe a singular care of the Churches and the whole Ministery, and in that care and solicitude was before all the rest: for which cause the name of a Bishop was peculiarly attributed to these highest* Procurators *of the Church.* The third is *Peter Martyr, at the same time imployed to reade Divinity* at Oxford; having expressed his consent & concurrence with Saint *Jerome* concerning Episcopacy, he proceeds. *So far it is from us to bring confusion into the Church, that rather we follow the same way: for there is no Dioceſſe with us, or City, where of many Pastors, there is not some one chosen excelling in Learning and Experience, whom they call the Superintendent of the Church. He convocates all the rest, he admonisheth them, he governs them according to the word of God, as the State of things requires.* The second reason is, that I see it lately published to the World in Print, that *Doctor whitakers, Doctor Fulke,* and *Doctor Reynolds,* were all Oppugners of Episcopacy. Perhaps of Popish Episcopacy, that is, the abuse not the thing, or of an absolute necessity by Divine Right of such and such an Episcopacy indowed with such or such degrees of Power or Preheminence, or of such an Episcopacy as is held to differ from Presbiterate in the very power of Order: but surely not of Episcopacy it selfe. I wondred at the impudence of the Man. It is a bad cause which stands in need to be underpropped with such *pious impious frauds,* & is onely fortified with hideous & palpable Lyes: if he fable in this, let him have the *just* reward of a Lyar not to be trusted in other matters. And first for *Doctor whitakers*; *Bellarmine* objects against the Protestants, that they take away Bishops: He answers,

*sp. ad*
*rd. ad 50.*
*ject.*

*eface to*
*r. Baine.*

answers: *We doe not receive Episcopum ordinis, alone*
*nomine, as alle falsly suppose, but Pseudepiscopum*
*tantum Pontificium. We doe not condemne all the or-*
*der of Bishops, as he* (that is *Bellarmine*: we may lay
the Professer,) *falsly slanders us, but onely those false*
*Bishops of the Church of Rome.* And about the same
place, speaking of that ancient constitution, that three
Bishops should be present at the Ordination of a
Bishop, he affirmes that it *was a good and a godly*
*sanction, and fit for those good times.* Doctor Fulke
presseth himselfe home, *That among the Clergy for*
*order and seemely Government, there was alwayes one*
*Principall to whom the name of Bishop or Superintendent*
*hath been applyed, by long use of the Church: which*
*roome* Titus *exercised in* Crete, Timothy *in* Ephe-
sus, *others in other places. That though a Bishop and*
*an Elder is of one Order and Authority in preaching the*
*Word and administring the Sacraments: yet in Govern-*
*ment, by ancient use of Speech, he is onely called a Bi-*
*shop, who in Scripture is called* proestamenos, proestos,
hegoumenos, Rom. 12. 8. 1 Tim. 5. 17. Heb. 13. 17.
*that is, the chiefe in Government, to whom the Ordina-*
*tion or Consecration by imposition of Hands, was alwayes*
*principally committed.* So according to *Doctor Fulke*,
the name is from Man, but the Office from God. I
I beseech thee Reader view the three places cited by
him at leisure, and thou shalt see who are the *Rulers*
and Governours and *Ruling Elders* mentioned in Ho y
Scriptures, in the judgement of *Doctor Fulke*. Lastly,
*Doctor Reynolds* is of the same minde, That the El-
ders ordained by the Apostles, did choose one among
them to be President of their Company, and Mode-

Cont. 2. de Eccles. qu. cap. 3.

upon Titus cap. 1.

Reynold. a Hart p. 5

rator

rator of their actions, *as of the Church of Ephesus though it had sundry Elders and Pastors to guide it: yet among these sundry, was there one chief, whom our Saviour calleth the Angell of the Church, &c. And this is he whom afterwards in the Primitive Church, the Fathers called Bishop, &c.*. So that by *Doctor Reynolds*, though not for the name, yet for the thing Episcopacy was in the Church, even when Saint *John* writ the *Revelation*, and was approved by our blessed Saviour from Heaven.

Fifthly, In a difference of Waves, every pious and peaceable Christian, out of his discretion and care of his own salvation, will inquire which is *via tutissima*, the safest way. Now the Separatists themselves (such as have either Wisedome or Learning,) doe acknowledge that Holy Orders are truely (that is validly,) given by the Ordination used in our Church, (I meane not such as eirher hold no outward calling to be needfull, as the Anabaptists, or make the Church a meere Democracy, as the Independents:) but on the other side, a very great part of the Christian World, and among them many Protestants, doe allow no Ordination to be right, but from Bishops. And even Saint *Jerome*, who of all the Fathers makes the least difference between a Bishop and a Presbiter, yet saith, *What can a Bishop doe, which a Presbiter doth not, except Ordination?* And seeing there is required to the essence of a Church, 1. a Pastor, 2. a Flock, 3. a Subordination of this Flock to this Pastor; where we are not sure that there is right Ordination, what assurance have we that there is a Church? I write not this to prejudge our Neighbour Churches, I dare not limit the extraordinary

traordinary operation of Gods Spirit, where ordinary meanes are wanting without the default of the Persons; he gave his People Manna for food whilest they were in the Wilderneſſe. Neceſſity is a ſtrong plea: Many Proteſtant Churches lived under Kings and Biſhops of another Communion; others had particular reaſons, why they could not continue or introduce Biſhops: but it is not ſo with us. It was as wiſely as charitably ſaid of Saint *Cyprian*, *If any of my Predeceſſours through ignorance or ſimplicity have not holden that which our Lord hath taught, the mercy of the Lord might pardon them*, &c: So if any Churches through neceſſity, or ignorance, or newfangledneſſe, or Covetouſneſſe, or Practiſe of ſome Perſons, have ſwerved from the Apoſtolicall rule, or Primitive inſtitution, the Lord may pardon them, or ſupply the defect of Man; but we muſt not therefore preſume. It is Charity to thinke well of our Neighours, and good Divinity to looke well to our ſelves. But the chief reaſon is, becauſe I do not make this way to be ſimply neceſſary, but onely ſhew, what is ſafeſt where ſo many Chriſtians are of another mind. I know that there is great difference between a valid and a regular Ordination, and what ſome choiſe Divines do write of caſe of Neceſſity: and for my part am apt to believe, that God looks upon his People in mercy, with all their Prejudices, and that there is a great Latitude left to particular Churches, in the conſtitution of their Eccleſiaſticall Regiment, according to the exigence of Time and Place and Perſons, So as Order and his own Inſtitution be obſerved.

Sixtly, thoſe Bleſſings which the Engliſh Nation

have received from that Order, do deserve an acknowledgement. By them the Gospell was first planted in the most parts of *England*: By their Doctrine and Blood, Religion was reformed and restored to us: By the learned writings of them and their Successors, it hath been principally defended; *Cranmer*, *Ridley*, *Latimer*, *Hooper*, were all Bishops, *Coverdale* exercised Episcopall Jurisdiction. With what indignation doe all good Protestants see those blessed Men, stiled now in Print by a younge novice, *halting and time-serving Prelates*, and *common stales to countenance with their prostituted gravities every Politick fetch*. It was truely said by *Seneca*, that the most contemptible Persons ever have the looseſt tongues. The Observer confesseth that *Magna Charta* was penned by Bishops; (no ill service.) *Morton* a Bishop of *Ely* was the Contriver and Procurer of the Union of the two Roses; (a great blessing to this Nation.) Bishop *Fox* was the instrument imployed to negotiate and effect the union of the two Kingdomes. In former Distractions of this State, Bishops have beene Composers and Peace-makers, according to their Office: now they are contemned, and in their roomes such Persons are graced, whose Tongues are like that *curſed Bay-Tree* which caused brawling and contention whereſoever it came. *England* owes many of her Churches, Colleges, Hospitalls and other Monuments of Piety and Charity, to Bishops. It requires good advise before we expell that Order which of Infidells made us Christians, and that the the reasons should appear to the World. An Act of any Society how eminent soever, wherein are none

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of the Clergy, may ſooner produce ſubmiſſion then ſatisfaction to the Conſcience.

Seventhly, we have had long experience of Epiſcopall Government: if it have been accidentally ſubject to ſome abuſes; I deſire to know what Government in the World is free from abuſes: yet late and deare experience hath taught us, that much of that rigour which we complained of, was in ſome ſort neceſſary. If the Independents ſhould prevail, who are now ſo buſy breaking down the Walls of the Church, to bring in the *Trojan* Horſe of their Democracy, or rather Anarchy; doe but imagine what a confuſed mixture of Religions we ſhould have: *Affricke* never produced ſuch ſtore of diverſified Monſters. But to paſſe by them as unworthy of our ſtay, and to inſiſt onely in that Forme of Church Regiment, which of all new Forms is moſt received. I intend not accidentall abuſes, which from ignorant and unexperienced Governours muſt needs be many: but ſome of thoſe many Grievances which flow eſſentially from the Doctrin it ſelfe. Firſt for one High Commiſſion, we ſhall have a Presbytery or younge High Commiſſion in every Pariſh. Our Biſhops are bound to proceed according to Law: but this new Government is meerely Arbitrary, bounded by no Law but their own Conſciences. If the Biſhops did us wrong we had our Remedy by way of appeale or prohibition: but they admit no appeale, except to a Synod, which in a ſhort Seſſion cannot heare the twentieth part of juſt grievances. Our Law allowes not a Judge to ride a Circuit in his own Country, leaſt Kindred, or Hatred, or Favour might draw him

to injuſtice: what may we then expect from ſo many Domeſticall Judges, whoſe affections are ſo much ſtronger then their reaſons, but ſiding and Partiality? yet they bluſh not to tell us, that *this is the Tribunall of Chriſt*: Chriſt hath but one Tribunall in Heaven, *his Kingdom is not of this World.* That *theſe are the Laws of Chriſt*: the Laws of Chriſt are immutable, They alter theirs every Synod. That their *Sentence is the Sentence of Chriſt*: alas, there is too much Faction, and Paſſion, and Ignorance. Heretofore we accuſed the Pope, for ſaying that he had one Conſiſtory with Chriſt: doe we now goe about to ſet up Petty Popes in every Pariſh? and are they alſo become infallible in their Conſiſtoryes, at leaſt in their concluſion, not onely in matters of Faith, but alſo of Fact? Theſe are generall Grievances.

In particular, His Majeſty ſhall loſe His Supremacy in Cauſes Eccleſiaſticall, His Patronages, His firſt Fruits, His Tenths, and worſe then all theſe, the dependence of His Subjects, He ſhall be ſubjected to Excommunication, by which Engine the Popes advanced themſelves above Emperours: The Nobility and Gentry ſhall be ſubjected to the cenſures of a raw rude *Cato*, and and a few Artificers, They ſhall loſe their Advowſons (the People muſt elect their own Miniſters,) They ſhall hazard their impropriations: The two eyes of the Kingdome, the Univerſities, ſhall be put out: The Clergy ſhall have their ſtraw taken away, and the number of their bricks doubled: The People ſhall groane under the Decrees of a Multitude of ignorant unexperienced Governours, be divided into Factions about the choiſe

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of their Pastors, be subject to censure in sundry Courts for the same offence, be burthened with Lay-Elders, who if they please may expect, according to the Apostolicall institution (upon their grounds,) double honour, that is, maintenance: If there arise a private jarre between the Parent and the Child, the Husband and the Wife, they must know it and censure it,

*Scire volunt secreta domus atque inde timeri.*

All men must undergoe the danger of contrary Commands, from coordinate Judges; then which nothing can be more pernicious to the Consciences or Estates of Men, *Nulla hic arcana revelo.* These are a part of the Fruits, of their most received Government who oppose Bishops: if they doe not all shew themselves in all places, remember the Observers Caution, *They wanted power* to introduce them as yet. As some Plants thrive best in the shade: so if this Form of Regiment shall agree best with the constitution of some lesser Commonwealths, much good may it doe them, so they will let us injoy the like favour,

*Petimus damusque vicissim.*

Eightly, those Arguments which they urge out of Scripture against Episcopacy, are meere mistakes, confounding the power of Superiority itselfe, with the vitious affectation or Tyrannicall abuse of it; and are none of them to the purpose. As those two Texts that are most hotly urged, *The Kings of the Gentiles excercise Dominion over them, but ye shall not be so*: and that of Saint *Peter, Neither as being Lords* Luke 22. 1 Pet. 5.

over

*over Gods Heritage, but being Ensamples to the Flock*, do admit as many Answers almost as there are words in each of them, but they are not needfull. For no man that ever I read of, did say that Bishops had any such *Despoticall* or Lordly Dominion annexed to their Office, but onely a Fatherly power. And if these Places be to be understood in that sense which they would have them, they doe as much overthrow all their new Presidents, and Moderators, and Visiters, and their whole Presbytery, as they would have them to doe Episcopacy. Neither Christ nor Saint *Peter* did ever distinguish between temporary and perpetuall Governours: between the Regiment of a single Person, and a Society or Corporation. They like not the name of Lord, but that of Master they love dearely: yet that is forbidden as much as the other, *Neither be ye*
Mat. 23. 10. *called Master, for one is your Master, even Christ.* And whilest they reject the Government of a President or chief Pastour, yet they stile their own new devised Elders, *Ruling Elders*: and understand them still in the Scripture by name of Governours.

Ninthly, waving all these and all other advantages of Scriptures, Fathers, Councells, Historyes, Schoolemen; because it is alledged that all other Protestant Churches are against Episcopacy, I am contented to joyn the issue, whether Bishops, or no Bishops have the major number of Protestant Votes. First the practise of all the Protestant Churches in the Dominions of the King of *Sweden* and *Denmarke*, and the most of them in *High Germany*, doe plainly prove it; each of which three singly, is almost as much as all the Protestant Churches which want Bishops,

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hut together, (to say nothing of His Majesties Dominions;) all these have their Bishops, or Superintendents, which is all one. But for the point of practise, heare Reverend *Zanchy*, a Favourer of the Disciplinarian way, *In Ecclesiis Protestantium non desunt reipsa Episcopi, &c. In the Churches of the Protestants, Bishops, and Arch-Bishops are not really wanting, (whom changing the good Greek Names into bad Latine Names) they call Superintendents, and generall Superintendents. Where neither the good Greek names, nor bad Latine names take place, yet there also there use to be some principall Persons, in whose hands almost all the authority doth rest.* Neither is their practise disagreeing from their Doctrin. To begin with those who first were honoured with the name of Protestants, who subscribed the *Augustane* Confession, among whom were two Dukes of *Saxony*, two Dukes of *Luneburge*, the Marquesse of *Brandburge*, the Prince of *Anhalt*, and many other Princes, Republicks, and Divines: Thus they, *Facile possent Episcopi legitimam obedientiam retinere, &c. Bishops might easily retein lawfull obedience, if they did not urge us to keep Traditions, which with a good Conscience cannot be kept.* Again, *Nunc non id agitnr, &c. It is not now sought that the Government be taken away from Bishops but this one thing is desired, That they will suffer the Gospel to be purely taught, and release some few Observances, which cannot be kept without sinne.* This generall Confession may stand for a thousand Witnesses, under which all the Protestants in *Germany* did shelter themselves. To this I may adde the Apology for the same Confession, *Hac de re in hac conventu, &c. We have often testified*

Cap. sept. potest Eccl

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*testified of this matter in this meeting, that we desire with all our hearts, to conserve the Ecclesiasticall Polity, and the degrees made in the Church by Humane Authority.* Againe, *This our will, shall excuse us both before God and all the World, that it may not be imputed to us, that the Authority of Bishops was weakned by our means.* The confession of *Saxony* is subscribed by seventeen Superintendents or Bishops. The *Suevick* Confession is so farre *from opposing the spirituall power of the Prælates*, that they doe not *exclude them from secular Government*; and complaineth of great wrong done to their Churches, *as if they did seek to reduce the power of Ecclesiasticall Prælates to nothing*: And most plainly they declare for the Ecclesiasticall Jurisdiction of Bishops, in the 33. Chapter of the secular Magistrate. I might produce the Articles of the Protestants, and more Confessions, and many Witnesses to this purpose, if it were needfull. But perhaps some may say That these are all *Lutherans*, and no good Protestants. That were strange indeed, that they who made the Protestation, and from thence were called Protestants, keeping themselves to the same grounds, should become no Protestants; and they who made no Protestation, nor have right to the name, but by communion with them, should become the onely Protestants. But to satisfie them in this also.

*Harm. confes. Sect. 19. p. 290.*

*Harm. confes. Sect. 11. p. 65.*

Upon the Words of the *Augustane* Confession before recited, the Observations set forth in the name of the *French* and *Belgicke* Churches, at the latter end of the Harmony of Confessions, doe divide Bishops into three kinds; 1 Apostolicall, of Order not of Degree, common to all the Ministers of the word;

*Obs. 1.*

word: 2. Humane, both of Order and of Degree, which they confesse to be ancient, and defined, and circumscribed with many old Canons; 3. Tyrannicall, in the Church of *Rome*, wandring not onely without the word of God, but also *extra Canones æquissimos*, without those most equall or just Canons: which last they abhominate; but of this more in the next Consideration. They say further, that it is the Office of godly Magistrates, to see how farre it may be expedient for Bishops, to have some kind of Civill Dominion: and upon the *Saxonick* confession they acknowledge, that *Bishops may make Laws belonging to Order and Decency, so it be not done Arbitrarily, but by the judgement of a lawfull Synod*; and what doe we say more? You have also seen the confession of the Church of *England*, directly for Episcopacy; which nevertheless was so approved and applauded by the *Tigurine* Divines, *That they made no end of praising of it, that they judged nothing to have been published more perfect in those dayes, that they promise themselves that the Protestant Church shall never want a Champion, so long as the Authour thereof did live*: yet it was both for Bishops, and by a Bishop. *Calvine* was no *Lutherane*, yet he subscribed the *Augustane* Confession, or the Apology for it, or both. And in his *Institutions*, he describeth at large the Regiment of the Primitive Church, after the dayes of the Apostles, That *though the Bishops of those times, expressed more in their Canons then was expressed in the word of God, yet they composed the whole Oeconomy of the Church with that caution, that it may easily appear that it had almost nothing strange from the word of God*, That *in each Citty the Presbyters did choose one of their number to whom they gave the Title*

*Obs.* 3.

*Obs.* 1.

Pet. Mart. *Ep. ad* Jewellum.

*Lib.* 4. *cap.* 4. *Sect.* 1. 2. 3. 4.

*of Bishop, specially least dissention might spring from equallity as commonly it comes to passe.* He shews out of Saint *Jerome*, that this institution was *as ancient to Alexandria as from Saint Marke.* He proceeds to shew the end of Arch-Bishops, and the Constitution of Patriarkes: and concludes, That *this kind of government some called an* Hierarchy, *by a name improper, at least not used in the Scriptures: but if we passe by the name and looke upon the thing it selfe, we shall find that the Ancient Bishops did goe about to devise no other Forme of governing the Church, then that which God hath prescribed in his word.* There might be sundry other places alleged out of his Epistle, and his Answer to *Sadolet*, to the same purpose; but I omit them only with this note, that one of the most conspicuous places in his Epistle to *Sadolet*, *Talem nobis Hierarchiam, &c.* (against those that shall reject Episcopacy, being reduced to its due submission to Christ, and Society with their Brethren,) is purged out in the two latter Editions of *Beza* and *Gallasius*; to let us see, that the *Romanists* are not the onely men, who cut out the Tongues of their own Witnesses. *Zanchy* delivers the very same grounds, and addes, That *nothing is more certaine then this, That Episcopacy was received into the Church* communi consensu totius Reipublicæ Christianæ: *with the common consent of the whole Christian Commonwealth, That it was free for them to doe so, That it was done for honest or just causes, That it cannot be misliked, That those things which are defined and received by the Godly Fathers, congregated in the name of the Lord, by the common consent of all, without any contradiction to the Holy Scriptures, though they be not of the same Authority with the Scriptures, yet they are*

*De Relig. Christ. c. 25. Sect. 10. 11. & Observat. in eundem locum.*

*from*

…the Holy Ghost. Quæ hujusmodi sunt, ea ego
…probare nec velim, nec audeam bona Conscientia,
…ich as he had neither Will, nor Confidence, nor Conscience to disallow. Which very place being urged by
…arræus against Beza, he closeth with it, A quo me- Resp. pag. 116.
…ime certe dissentimus, cum Episcopatum illum mere di-
…vinum & Apostolicum, ab humano non quasi sint illa
…nter se repugnantia, sed tantam ut diversa & imparis
…uthoritatis discernimus. From which opinion of Zan-
…hy we doe not dissent, nor distinguish between that Apostolicall and meerely Divine Episcopacy, from this other which is humane, as if they were repugnant one to another, but onely diverse and of unequall Authority. The same Booke is full of such places, Quod si nunc Ecclesiæ Anglicanæ instauratæ, &c. Pag. 3.
*If the English reformed Churches doe now stand underpropped with the authority of Bishops and Arch-Bishops, as it hath come to passe in our memoryes, that they have had Men of that order, not onely notable Martyrs, but most excellent Pastors and Doctors; let them injoy that singular Blessing, which I pray God may be perpetuall to them.* And elsewhere speaking of humane Episcopacy (as he is pleased to call it,) he addes, Quo sane fru- Pag. 177.
*antur, &c. which let them injoy who perswade themselves that the right use of it may be observed by them.* And
again, Absit ut hunc ordinem, &c. *Farre be it from me* Pag. 144.
*to reprehend this Order as rashly or proudly erected, though it be not a Divine or meerely Apostolicall Constitution; whereof rather no man can deny that there may be great use, as long as good and holy Bishops are over the Church; Let them injoy it therefore that will and can.* This & *poterint*, and can, was well put in: it was not the un-

lawfulneſſe of the order, but the inconſiſtency with the preſent State of *Genevah*, which excluded it thence. And having ſpoken of the Apoſtolicall Canon, and the Superiority of the Arch-Biſhop above his Fellow Biſhops, he concludes, *quid aliud hic ſtatuitur, &c. what elſe is here decreed, but that order which we deſire to be reſtored in all Churches?*

pag. 116.

It appeares then plainly, by the confeſſions of Proteſtant Churches, by the Teſtimonyes of the moſt learned Diviſes, yea, even of thoſe that lived under another Government, that if Biſhops be not neceſſary, yet at the leaſt they are lawfull. It appeares that three parts of fower of the Proteſtant Churches, have either Biſhops or Superintendents, which is all one: and that thoſe Churches which have neither, yet they have ſome principall Men, *Primarios*, which have as much power as Biſhops, *viis & modis*. But if we ſhould be contented to leave three parts of Proteſtants to joyn with the the fourth, ſhall we find them unanimous in this? No ſuch thing. The *Helvetian* and other Churches aſcribe the Government of the Church to the Magiſtrate and allow no Lay-Elders: But *Genevah* and her Daughters to their Pre byteries, yet neither the Mother is like the Daughters, nor the Daughters very like one another; as hath been ſhewed in part before in this Treatiſe: and the Independents are for neither of theſe wayes: And all learned men doe acknowledge our Engliſh Epiſcopacy to be lawfull, yea even the preſent Preſident and Paſtors of *Genevah* do the ſame. So if we deſire conſent either of Proteſtants in particular, or of Chriſtians in generall, yea of the whole Catholicke

Symbo-

Symbolicall Church; it is best for us to keepe us where we are.

My tenth and last Consideration riseth higher, That according to their grounds, who have been the greatest Oppugners of Episcopacy, the Government of our English Bishops is not onely lawfull, but for the most part necessary, nor onely necessary but even an Apostolicall and Divine Institution. This seeming Paradox is yet most certain, and their opposition hath been but beating the aire. For the clearer manifestation whereof, we must know.

First that the greatest impugners of Episcopacy, do not seek to bring such a Parity into the Church: but that by the *Ordinance of God* and *Dictate of Nature*, one Presbyter ought to be President above the rest, *Ex Dei ordinatione perpetua, necesse fuit, est & erit, ut in Presbyterio quispiam & loco & dignitate primus, actioni gubernandæ præsit, cum eo quod ipsi Divinitus attributum est jure.* It was, it is, it ever shall be necessary, by the perpetuall Ordinance of God, that some one in the Presbytery as chief both in place and Dignity, be set over the Action to govern it. He saith that even then, whilest the appellation of Bishop sand Presbyters was common: yet the Presbytery had *suum aliquem primum & proestantem Presbyterum*, Some one to be their ruling or Presidentiall Presbyter. He saith Saint *Jerome did not so dote as to dream that no one of the Presbytery was set over the whole company in the Apostolique times*: and takes it as a great injury, that any Man should thinke that they did goe about to abolish *omnem unius Episcopen, in vel supra cæteros compresbyteros*, All Superspection or Superintendency

Bezæ defens. pag. 153.

Pag. 140.

Pag. 160.

tendency of one above his Compresbyters. To the same purpose saith *Calvine*, it is no mervaile that the twelve Apostles had one among them to govern the rest; this we have from Nature, the disposition of Men requires it, that in every Company though they be equall in power, yet one should be as Moderator.

*Inst. lib. 4. c. 6. Sect. 8.*

Secondly, they teach (notwithstanding their drowsie, groundlesse, new-hatched conceit, that this Presidency went successively by turnes among the Presbyters,) that either in the dayes of the Apostles, or immediately from them, this *Episcope* or office of Superintendency, became Elective and perpetuall to one man, *Quod certe, reprehendi nec potest nec debet*, which certainly neither can, nor ought to be blamed; *especially seeing this ancient Custome was observed in the famous Church of* Alexandria; *Jam inde a Marco Evangelista* *Even from Saint* Mark *the* Evangelist. So as the Office is of Divine Institution, the forme of Application onely is Humane: yet not meerly humane neither; *Humanum non simpliciter tamen sed comparate, nulla cum Patrum & tot Ecclesiarum injuria appello*, *vero, I may call it humane not simply, but comparatively, without injury to the Fathers, or so many Churches*; Indeed all the Churches in the World, and all the Fathers that ever were.

*Beza defens. pag. 141. 142. 143.*

Thirdly, This Presidency of Order, which they give to one man, even upon their own grounds is not destitute of all kind of Command and power. He hath *jus regendæ communis actionis*, a right to moderate the Action of the College, or to govern the common Action, and that *certis legibus*, according to certain

*Pag. 114. 887.*

Law

Laws. First, *a right to moderate the Action*, that is, to convocate the Presbyters, to appoint the time and place, to propose matters, to collect the Suffrages either by himselfe or by such as he appoints, to pronounce Sentence. Secondly, *certis legibus*, according to certain Laws; this brings us to the true question where the water sticks; The Law of God and the lawfull Constitutions of the Church, must be the just measure and limits of this Presidents commands, of his Compresbyters obedience. So that Tyrannicall absolute Arbitrary power which is usurped by the Bishop of *Rome* and his Instruments, is rejected by all Partyes on the one side, and all *Anarchy*, *Ataxy* and Disorder on the other side: yet this is not all.

Fourthly, this President hath another power by Divine Right, or at least by Divine Right is capible of another power: that is, not onely to moderate the whole Action by his Authority, but also *to execute that which is decreed by common consent*. Neither can this executive Power in reason be limited to the meer execution of Personall Decrees, concerning particular Persons: but every where it extends it selfe to preparatory Actions and matters of Forme. Neither doth it rest here, but admits, or at least may admit a greater latitude, even to the execution of Laws; especially where the Law is cleare, the Fact notorious or evidently proved, where Succession and the publicke are not concerned, where the presence of the whole College is not so usefull or convenient, and might rather incomber then expedite the businesse: and all this more or lesse *according to their certain Laws*, the severall constitutions of severall Churches:

*Calv. Ja*
*lib. 4. cap*
*Sect. 2.*

alwayes

alwayes reserving to the whole Body of the Clergy, or those who by election or prescription do represent them, the power of making and altering Laws and Canons Ecclesiasticall, and to His Majesty His Royall power of assenting and confirming, and to the representative Body of the Kingdome their power of receiving, principally in cases of moment: and likewise reserving to the Clergy, either Rurall or Cathedrall, according to their distinct capacityes, their respective power of counselling, consenting, or concurring, according to the constitutions of the Church, and Laws and Customes of the Realme, which as they are grounded upon naturall reason and equity, so they are no way repugnant to the Law of God, whereof there are yet some Footsteppes to be seen in our Ordinations, our Deanes and Chapiters, our Semestriall Synods, &c. And if these old neglected Observations, were a little quickned and reduced to their primogenious temper and constitution, : perhaps it might remedy sundry inconveniences, and adde a greater degree of Moderation and Authority to the Government of the Church. Who can be so stupid a to imagine, that the State, and Church, and People of *Genevah* at this day, do not, or may not give to the President of their Ecclesiasticall Senate a perpetuity of Government for his Life : or inable him to execute some Ecclesiasticall Laws, so farre as they shall see it to be expedient for the good of that Church and Commonwealth, without swerving from the institution of Christ? This might yet further be made plain, by those comparisons and representations which *Calvine* and *Beza* do bring of this Episcopall or Presidentiary

sidentiary power, of a Consull in the Senate, of a Prætor in the Court, of a Provost in a College, of a Steward in a Family: They ought to looke upon him as their Superiour and Governor, and he upon them as Brethren and Fellow-Elders. This is that which our English Bishops claime, whereunto they are intitled by the Fundamentall Laws of the Land. How farre the power of the keyes, of Ordination or Jurisdiction, is appropriated or committed to them, singly or joyntly by Divine Ordinance, (of which Subject great Authors upon great reasons have declared themselves:) yet in our case it is not so questionable, where another Lawfull Right is certain: and this clear satisfaction of Conscience they want, who are so busy seeking after new devised forms of Ecclesiastical Regiment. And herein I may as justly admire the excellent temper of our Church Government, as the Observer doth of the Civill; I hope it is not in either of us, *ut Pueri Junonis avem*, As Boyes praise the *Peacock*, with a desire to pluck his feathers. The Clergy present, the Bishops approve, His Majesty confirmes, the Parliament receives: all parties have their concurrence, so as no Man can be prejudiced without his own act. If we alter this Frame, we shall have a better in Heaven; I fear not upon Earth.

So then we see that upon these very grounds, which have been laide by the greatest Opposers of Bishops in this Age, 1 there is a subordination of many Pastors to one President by Divine Ordinance, 2 This Presidency, or Superintendency, or Episcopacy, (all is one,) may without violation of Divine Ordinance be setled upon one Man for his life, 3 This Person

ſo qualified, hath a power eſſentially belonging to his place, to rule and moderate the publick meetings and Actions of the Church: yea to execute the decrees of the whole College. 4 This executive power may receive a further latitude or extent, from the poſitive Laws of Men. What is the reſult of all this? but that as Presbyterate or the Office of a Prieſt, Presbyter, or Miniſter, (I ſhall wrangle with no man about a name, whileſt we agree upon the thing) is of Divine inſtitution, yet nevertheleſſe there is ſomething Humane annexed to it; as for inſtance the Aſſignation of a ſingle Paſtor to a particular Pariſh, (which cuſtome was firſt introduced by *Evariſtus*, long after Biſhops were ſpread over the World:) ſo likewiſe Epiſcopacy it ſelfe is of Divine Right, yet ſomething may be added to it, ſome extent of Power which is humane, and yet very lawfull and expedient; wherein every Church is to be its owne Judge. If to this which hath been ſaid of the Antiquity, Univerſality, Aptitude, Security, of this way, &c, we ſhall adde that *Ambroſe*, *Auſtin*, *Chriſoſtome*, *Cyprian*, *Baſile*, *Athanaſius*, and very many others, the lights of their times, were not onely Defenders of Epiſcopacy, but Biſhops themſelves; there can remain no ſcruple to us of this Nation what Church Regiment is to be deſired.

But ſome do ſay, why then doe ſundry eminent Proteſtant Authors inveigh ſo much againſt Biſhops? I anſwer, It is not ſimply againſt, their Function, but againſt the ſloth of ſome for not preaching, or the pride and Tyranny of ſome particular Perſons; and more eſpecially it is againſt the *Romiſh* Biſhops. I might cite many Witneſſes to make this as clear as

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e Sun: take one of many: *Neque vero cum hoc dico,* Beza *resp.*
*jus Tyrannidis eos Episcopos veram Christi Religio-* pag. 1589.
*m profitentes & docentes iutenda, absit a me tam im-*
*dens arrogantia. Neither while I say these things, doe*
*ccuse those Bishops of Tyranny, which professe and teach*
*e true Religion of Christ, Far be such impudent) Arro-*
*nce from me.* And further he saith, that they are to be Pag. 126.
knowledged, observed, reverenced, as faithfull Pastors
the Christian Church. And in an Epistle to the
en Arch-Bishop of *Canterbury*, he expresseth him-
lfe, that such invectives were never intended against
e Government of the English Church, but against
*nti-Christian Tyranny.*

Secondly, it is objected that *they did put away Bi-*
*ps.* I answer, that some Reformed Churches were
der Bishops, who were out of their Territories; as
e *Helvetian* Churches under the Bishops of *Con-*
*nce*: others were under Bishops of another Com-
union; as the *French* Churches: others could not both
ntinue Bishops and bring in the Reformation of Re-
gion; as the Church of *Geneva*: others did retein
ishops under the name of Superintendents, because
e old name had been abused by the *Pseudo Episcopi* or
lse Bishops, in the Church of *Rome*; by the same
ason we should neither use the name of Christ, nor
postle, nor Gospel, nor Sacrament, because there
ve been false Christs, false Apostles, false Gospels,
lse Sacraments: lastly, many retained both the name
d the thing; as the Churches of *England Sweden*,
c. And generally all Reformed Churches were de-
ous to have reteined Episcopacy, if the Bishops that
en were, would have joyned with them in the Refor-

mation. This is evident for the *Germane* Churches by the *Augustane* confession, and Apology, That Bishops might easily have reteined their places, if they would, they protest that they are not guilty of the diminution of Episcopall Authority. And for the *Helvetian* Churches, it appeares by that letter of *Zuinglius* and ten others of their principall Divines, to the Bishop of *Constance*; in all humility and observance beseeching him, *To favour and helpe forward their beginnings as an excellent Worke and worthy of a Bishop*; they call him *Father, Renowned Prelate, Bishop*; they implore his *Clemency, Wisdome, Learning*, that he would be *the first Fruits of the Germaine Bishops, favour true Christianity springing up againe, to heal the wounded Conscience*; They beseech him *by the common Christ, by our Christian Liberty, by that Father's affection which he owes unto them, by whatsoever was divine and humane, to looke graciously upon them: or if he would not grant their desires, yet to connive at them. So he should make his Family yet more illustrious, and have the perpetuall Tribute of their Prayses, so he would but shew himselfe a Father, and grant the request of his obedient Sonnes*; They conclude, *God Almighty long preserve your Excellency*.

Epist. 373. Thirdly, for the *French* Churches, it is plain by *Calvine* in one of his Epistles, touching a Reformed Bishop, that should turne from Poperv: that he might retein His Bishoppricke, his Dioceſſe, yea even his *Revennues* and his *Jurisdiction*.

Lastly, it is objected, that *Bishops have been the Introducers of Anti-Christian Tyranny, and all other abuses into the Church*. One said of Phisitians that they were happy Men, for the Sunne revealed their Cure, and the Earth buried all their in-

mities: contrary wise we may say of Governours that in this respect they are most unhappy Men, for the Sun reveales all their infirmities; nay more, all the Ennormities of the Times, and the aberrations of their Inferiours, are imputed to them; but the Earth buries all their cures. Episcopacy hath been so farre from being an adjument to the Pope, in his Tyrannicall invasion of the Libertyes of the Church, that on the other side it was a principall meanes to stay and retard his usurpation; as did well appeare at the Councell of *Trent*, how little he was propitious to that Order, and by the Example of *Grodsted* Bishop of *Lincolne*, who was *malleus Romanorum*, and many others. And now much the rather when Bishops acknowledge no dependency upon him. No Forme of Government was ever so absolute as to keep out all abuses. Errors in Religion, are not presently to be imputed to the Government of the Church; *Arrius*, *Pelagius*, &c. were no Bishops: but on the other side if Bishops had not been, God knows what Churches, what Religion, what Sacraments, what Christ we should have had at this Day. And wee may easily conjecture by that inundation of Sects, which hath almost quite overwhelmed our poor Church on a suddain, since the Authority of Bishops was suspended. The present condition of *England* doth plead more powerfully for Bishops, then all that have writ for Episcopacy since the Reformation of our Church.

I have made this digression by occasion of the Observers so often girding at Bishops; he may either passe by it or take notice of it at his pleasure. There are some small remainders of his worke, but of no great moment; as this, That *there is a disparity be-*

*tween naturall Fathers, Lords, Heads, &c. and Politicall.* Most true, (though the Observer hath not met with the most oppofite instances) otherwise they should be the very same thing; every like is also dislike. He conceives that there is onely some sleight resemblance between them: but our Law saith expresly otherwise, That His Majesty is *very Head, King, Lord, and Ruler* of this Realme, and that *of meer droit and very right*. First *very Head and Lord*, and then *of meer droit and very right*: It is impossible the Law should speake more fully. But the maine difference which may come near the question is this, that the Power which is in a *Father, Lord*, &c. moderately and distinctly, is joyntly and more eminently in a Soveraigne Prince; as was long since declared at *Rome*, in the case between *Fabius Maximus* and his Sonne. No Father could deserve more reverence from a Sonne: yet he knew that Domestick command, must veile and submit to Politicall, and that the Authority of a Father of a Family, doth disappear in the presence of the Father of a Country, as lesser Starres do at the rising of the Sun. But his maine ground is, that the King is the *Father, Lord, Head*, &c. of His Subjects *divisim*, but not *conjunctim*, if you take them singly one by one, but not of an intire collective Body. So it seemes His Majesty is the King of *Peter*, and *Andrew*, not of *England*, nor yet so much as of a whole Towne or Village: yet the Observer himselfe can be contented to be the Lord of a whole Manour. I conceive he learned this doctrine out of *Schola Salerni, Anglorum Regi*, &c. If this assertion were true, how extremely

trmely hath the World been deceived hitherto? and we have all forſworne our ſelves in our Oaths of Supremacy and Allegiance. His Majeſty is much bound to him for making him King of ſo many pretty little Kingdoms: but as *Titus Quinctius* ſaid of *Antiochus* his Souldiers, when their Friends did ſet them out by parcells, for Armies of *Medes*, *Elemites*, *Caduſians*, &c; That all theſe in one word were but *Syrians*. So His Majeſty is well contented to reduce all theſe Kingdoms of *Microcoſmes*, into one Kingdome of *England*, if he may hold that in peace.

Such another *Paradox* is that which follows, that *Treaſon or Rebellion in Subjects is not ſo horrid in nature, as oppreſſion in Superiours*. One of the moſt abſurd opinions, and moſt deſtructive to all Societies, that ever was deviſed. By this new learning, when the Maſter ſhall correct his Servant, without ſufficient ground in the Servants conceit; he may take the Rod by the other end, give His Maſter ſome remembrances, to teach him his Office better: If it be a little irregular, yet it is the leſſe fault upon theſe grounds. Doth any Man think that the Obſerver inſtructs his Family with this doctrin, at home out of his chaire? beleeve it not. By the very equity of this concluſion it ſhould be a greater ſinne, for a Man to miſpend what is his owne, then to robbe or ſteale that which is not his own. The Superiour though he abuſe his power, yet hath a right to it, but the inferiour hath none. How diſcrepant is this from the judgement of former times? they thought no crime could be ſo great, as that it ought to be puniſhed with Parracide: or that for diſcovery thereof, Pag. 19.

a Ser-

a Servant ſhould be examined againſt his Maſter, or a Child againſt his Parent. The Law of Parricides denyed, *lucem vivo, fluctuanti mare, naufrago portum, morienti terram, defuncto Sepulchrum. Tully* ſaith, they were to be ſowed up quick in a Sack, and ſo caſt into the River: not to the wild Beaſts, leaſt the very Beaſts ſhould become more inhumane by ſuch nouriſhment, not naked leaſt they ſhould pollute that Element which purgeth all things. Our Saviour calleth *Judas* a Devill, *Have not I choſen you twelve and one of you is a Devill?* why a Devill? becauſe he was a Traytour. Let the Obſerver find out a worſe name if he can.

Such another is his compariſon, between the thirty Tyrants at *Athens* and the Cavaleers at *Yorke*. Compariſons are odious, I deſire not to meddle with them. But it is well known what the thirty Tyrants were. 1 They were a Company packed together by *Lyſander* for his purpoſe. 2 They were called *Optimi*, good Patriots, and *Adminiſtratores Reipublicæ*, the Adminiſtrators of the Commonwealth. 3 They had the placing and diſpoſing of the Senators or Councells. 4 They made the Magiſtrates of *Athens* out of their own Faction and Clients. 5 They were great Profaners of Temples and Contemners of Religion, as appeared by their command to pull *Theramenes* from the Altar. 6 They armed 3000 of their own party, and diſarmed all others. 7 They filled all *Greece* with *Athenian* Exiles. 8 They killed more in eight Moneths, then the *Spartan* Warres had done in ten yeares. 9 *Condebant Leges*, They uſurped both the legiſlative power; and more then that, an Arbitrary po-

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wer without Law, ; ſo as there was need of a Law, that *no Man whoſe name was written in ſuch a Catalogue, ſhould be ſlain* ſine judicio *without lawfull triall*; other Men might. And yet as if both theſe were not ſufficient, they aſſumed an abſolute Power over the Law and againſt the Law : *ego vero ne lege haſce tueri poſſit, nomen ejus deleo & morte condemno*, to depriye him of the benefit of this Law, I blotte out his name and condemne him to dye. Laſtly, they had their turne, according to that Prophetick Prædiction of *Theramenes*, when he had drunke up the cuppe of poiſon and caſt the ſnuffe upon the ground, ſaying, *propino hoc Critiæ pulchro, a health to gallant* Critias the Arch-Tyrant ; (which Story ſaith *Tully* in his *Tuſculans* no Man can reade without teares ;) and ſhortly after *Critias* followed him into another world to give an account of his bloody Adminiſtration.

Such flowers as theſe we find ſtrawed here and there in his Book. And ſo he concludes abruptly, *I find my reaſon already captivated, I can no further* ——. *Pag.* 35.

Whether it were done to amuſe the World, as if he had much more matter, but that the Preſſe prevented him ; or that all this while he hath been uttering, his miſterious Enthuſiaſmes and Oracles, and now (*propiore Deo*,) he is rapt into an extaſie or trance : or laſtly, becauſe he was as confident of the ſucceſſe of his Obſervations, as the *Spaniards* of their *Invincible Armado*. *Zeno* ſometimes wanted opinions, but never wanted Arguments : What weighty reaſons did the *Franciſcans* urge on both ſides, *pro & contra*, and with what fervour, even about the Colour and fa- *Anti-*

fhion of their Habits? I have heard of a like ſtirre at *Amſterdam* about Starch: When Men ſtretch and tenter their Witts to uphold a party, They will find ſomething to ſay, though it be in prayſe of *Hellen*, or commendation of *Folly*. It is dangerous to leave old received rules, upon probable and ſpecious pretences: *Remove not thou the ancient bounds, which thy Fathers have ſet.* It is the Wiſedome of the *Serpent*, *to ſtop her ears*, *againſt the Voice of the Charmer*: It is the Wiſedome of a good Chriſtian, a good Subject, to preſerve his Faith to God, and his Loyalty to his Prince, and to bleſſe himſelfe from the Magicall Spells of all ſuch Charmers and Obſervers.

Prov. 22. 28.

Pſal. 58. 5.

FINIS.

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GOod Reader, whereas an Anabaptisticall Speech is cited in the Epistle which some say is of dubious Faith, bemoane with me the licentiousnesse of the times, when the Presse hath brought the just reward of a Lyar upon it self, and an Academicall uncertainty upon us; but know that in this case it is not materiall, nothing being cited but what agrees with the very grounds of the Anabaptists.

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*Errata.*

EPist. page 2. line 11. for Milita reade Militia. p. 9. l. 7. for fine r. find. p. 19. l. 4. after insurrection adde for Religion. p. 23. l. 3. for leafe r. leave. Lib. Pag. 2. l. 25. for turned r. tuned. p. 22. l. 18. for anthorative, r. authoritative. p. 35. l. 6. for foure hundred, r. three hundred. p. 44. l. 5. for recoverable irrecoverable, r. revocable irrevocable. p. 84. l. 14. for *oxibus* r. *ovibus*. p 142. l. 12. for same yeare, r. eleventh yeare. p. 156. l. 24. for coutse r. curse. p. 158. l. 11. for *pesla pestis*, r. *pila pilis*. p. 178. for *Heb.* 6. 19. r. *Heb.* 6. 16. And such like as sends for send. presentia for præsentia. Phisitian for Phisitian. *Cataline*, for *Catiline*. ahe or he for the. Idolised for Idolised. *pseudopiescopi*, for *pseudoepiscopi* ennormities for enormities, conjacture, for conjecture, Jesurum for Jesurun. And the like.